

## HOUSE OF REPRESENTATIVES—Thursday, September 10, 1987

The House met at 11 a.m.

Rev. Hal Marchman, Central Baptist Church, Daytona Beach, FL, offered the following prayer:

We thank You, O God, for this day in which we can be still and know that You are God and Father of all mankind. We pause to give thanks for this great Nation and for those who guide and lead us. May each one of us make an effort today to close the gap between what we are and what You want us to be. May Your love be expressed in our actions and relationships. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## REV. HAL MARCHMAN

(Mr. CHAPPELL asked and was given permission to address the House for 1 minute.)

Mr. CHAPPELL. Mr. Speaker, I am so pleased that we can have one of our finest citizens as the chaplain of the day for this august body. I am so pleased that he comes from the Fourth District, my district, and I want to say that he is one of the finest friends I have ever had and one of the finest Americans I know. It is so great to have him with us today.

## SCHULZE AMENDMENT TO EXTEND MINIMUM DURATION OF TENDER OFFER FOR CONTROL OF CORPORATIONS

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, today I had intended to offer an amendment to the Securities and Exchange Commission Authorization Act, addressing one aspect of some current takeover attempts. My amendment would have extended the minimum duration of any tender offer for control of a corporation to 60 calendar days. An amendment of this type would provide more adequate protection for workers, management, and shareholders, from those who utilize our securities laws to fill their own pockets regardless of the best interests of our Nation.

I will not offer this amendment, at the request of our distinguished rank-

ing member from New York, Mr. LENT. However, let this be a signal to those who are searching for profits and venture capital in the assets of stable and well-managed corporations. It is my hope that the Committee on Energy and Commerce will move forward quickly with reforms of our securities laws to protect our Nation's interests.

## CONGRESS RETURNS TO CLEAN FRESH BUILDINGS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I commend you, the Clerk of the House, the Superintendent of Buildings and the Architect's Office for cleaning up of the House buildings and the Capitol. The halls have been freshly painted, boxes have been moved out of the halls, and there is just a fresh look to our facilities.

Mr. Speaker, now it is up to Members and staff to keep this place looking nice.

## THE TURKEY AT&amp;T TELEPHONE SYSTEM

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, my staff asked me the other day if I were going turkey hunting and I responded, heavens, no, we have a turkey of our own right in our very own office. As a matter of fact, we have a whole flock of turkeys called the AT&T, American Turkey Troop, planned by no less than the committee in GSA.

If my colleagues have not noticed, they come mostly in this black color and emit various noises, mostly unintelligible. Once I heard the noise emanating from one "cheap cheap cheap cheap."

This fowl critter reacts in strange and stubborn ways. I tried the other day to send my receptionist a message, and I had to send a messenger.

I would suggest at some point next week we organize a turkey drive, and out of the goodness of our hearts each and every single office contribute to the well of the House one of these fowl critters. Can my colleagues imagine the smell that would emanate from a huge pile of these critters piled right here in the well?

Maybe that would send a message, because I know that we cannot do it on this fowl critter.

## DANIEL ORTEGA'S TRIP TO MOSCOW

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, I was amazed to read in the Washington Times this morning a report quoting the Speaker of the House saying he hoped Daniel Ortega's trip to Moscow "will have the effect of producing less dependence on Moscow and Havana." If that report of the Speaker's remarks is accurate, I would simply like to refer to all the previous trips Daniel Ortega has made to Moscow. They have always been to secure greater assistance and closer cooperation between Moscow and Managua. The first Sandinista diplomatic missions after gaining power were to Havana and Moscow. The Soviet Communist Party signed a treaty with the Sandinista party within 11 months of their taking over in Nicaragua. Even last week, the news of Soviet assistance in the form of increased fuel supplies demonstrates clearly the Sandinistas increased dependence on the Soviets. No one should be surprised that Daniel Ortega goes to Moscow. Swallows fly to Capistrano, buzzards fly to Hinckley, and Ortega flies to Moscow. Skeptical as I am about it, I hope Ortega will have complied with the Guatemala agreement he made to bring democracy to Nicaragua before he goes to Moscow.

## ANNUAL MEETING OF THE INTERNATIONAL FEDERATION OF MULTIPLE SCLEROSIS SOCIETIES

(Mrs. BYRON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BYRON. Mr. Speaker, I would like to take just a moment to welcome the International Federation of Multiple Sclerosis Societies to Washington, DC. The federation, with 31 member nations, is conducting their annual conference from September 8 through 12 at the Sheraton Grand.

Multiple sclerosis is a degenerative neurological disease that affects nearly 2 million people worldwide. There is no known cause and no

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

known cure, at this time. The disease primarily attacks young adults, aged 20 to 40, and appears to be triggered by a virus that causes multiple scarring of the brain tissue.

During this conference, the delegates will be reviewing ways to stimulate scientific research into MS, to collect and disseminate information on the disease and to aid persons who have been disabled.

I am pleased to inform the House, that a constituent of mine, Mr. George Boddinger, of Potomac, MD, is one of seven official delegates to the conference from the United States. Mr. Boddinger is a corporate consultant for the National Association of Securities Dealers. He is a director of the Harvard Business School Club of Washington and is active in a number of civic causes. I wish Mr. Boddinger and the MS Society the best of fortune in their efforts to conquer this form of human suffering.

#### REPORT ON PROGRESS OF CONSTITUTIONAL CONVENTION IN PHILADELPHIA

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, it is now September 10, 1987, and I am reporting to you from the floor of the Constitutional Convention in Independence Hall, Philadelphia.

Now the delegates are poised for the final week of action to complete the document that is supposed to serve as the new foundation for the new United States of America. Today they are deep in deliberations on the question of how to amend the new Constitution, if indeed amendments were ever to be offered.

The former one to which they agreed does not serve the best interests, it seems, of Gerry of Massachusetts, Alexander Hamilton of New York, and James Madison of Virginia. Those three have gotten together and have proposed, and the vote is now being taken, on the proposition that amendments to the Constitution should be able to be forthcoming from two-thirds vote of each House of the Congress or of the States themselves in proposing it with two-thirds number, and then that could be ratified by three-fourths of the States who would contemplate such an amendment.

I am ready to take the vote to my colleagues. The final vote is being cast, and it appears that the amendment has carried and, therefore, the amendment process for the Constitution is now embedded. Everybody is optimistic that within a week they will be signing this new Constitution of the United States. I am reporting to you

200 years ago today from Philadelphia at the Constitutional Convention.

#### SEPTEMBER 15—KONA COFFEE DAY

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, although Americans drink 380 million cups of coffee a day, Hawaii is the only State that produces native-grown coffee. Kona coffee, from the island of Hawaii, is recognized the world over for its rich flavor and distinctive aroma.

As a tribute to America's only native coffee, "Kona Coffee Day" will be observed on September 15 at the Members' dining room in the Capitol. On that day, all coffee served in the Members' dining room will be Kona coffee.

My colleagues, when you buy a cup of coffee on September 15, you will be sharing in a proud tradition. Kona coffee dates back to 1817 when King Kamehameha, the first ruler to unite the Hawaiian Islands, ordered the planting of coffee trees so that the royal family could enjoy their own special blend of coffee. As a result of his 1817 decree, Kona coffee now graces the slopes of the majestic Mauna Loa, an active volcano soaring 13,680 feet above the Pacific. For 170 years, Hawaii's rich soil, mild breezes, moderate temperatures, and gentle rains have given Kona coffee a flavor unlike any other coffee in the world.

During his 1866 tour of the Hawaiian Islands, the unique flavor of Kona coffee so impressed the usually acerbic Mark Twain that he gave it an unqualified endorsement. On September 15, you can celebrate "Kona Coffee Day" by enjoying the coffee that Twain judged to have a "richer flavor than any other."

#### UNITED STATES NEEDS CAPITAL PUNISHMENT LAW

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Donald Harvey signed an agreement with the Government Monday. Donald Harvey will plead guilty to killing some 20 people in hospitals in Kentucky and Cincinnati. The Government will grant him a life sentence.

Mr. Speaker, I think it is time we stopped plea bargaining and draft a legislative remedy to stop the homicides that are escalating in this country.

Everybody is talking about the sexy issue of terrorism, but my God, look at the limited number of people and the exposure we face by the tremendous amount of murder in our own country.

It costs us \$100,000 a year to keep Richard Speck in a maximum security cell.

I think it is time we start taking a look at the victims and not the rights of these killers, and Congress enact a strict capital punishment measure that will send a signal throughout the country that we are fed up with it.

□ 1115

#### DOES THIS BRING BACK MEMORIES OF BEIRUT?

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, during August I crisscrossed my Missouri district. And much of what I heard was not surprising. My constituents are concerned about trade, about agriculture, about education and about the deficit. But they have added another big concern to their lists—the Persian Gulf situation.

They want to know why we are there and what our policy is. I couldn't answer them because I don't know. The administration hasn't shared its policy with us.

It can't be because of the oil—we don't rely on oil from that region. It can't be because of our friends in the area—they basically have refused to help us.

Once again this administration is depending on its Rambo-like style of foreign policy to blunder through another ordeal. Does this bring back memories of Beirut?

Mr. Speaker, I join my Missouri constituents in asking the administration to explain what our policy is in the Persian Gulf, tell us what our goals are and how we are going to achieve them. That's not too much to ask.

#### HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

(Mr. GAYDOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GAYDOS. Mr. Speaker, every year, according to Government estimates, as many as 100,000 workers die and as many as 400,000 are newly disabled due to diseases caused by workplace substances. And, every year, according to a 1984 Department of Labor study, these deaths and disabilities cost American taxpayers \$5.4 billion in Social Security, Medicaid, and Medicare payments. H.R. 162, the High Risk Occupational Disease Notification and Prevention Act, is designed to save those lives and lower those costs.

Among the many supporters of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act,



are some members of the business community who will be affected most by the bill.

When the National Paint and Coatings Association testified at 1 of our 10 hearings, we listened carefully to what they said. Initially, they were concerned with some scientific and administrative aspects of the program and also about its impact on liability. But, based on improvements we are making in the bill, they now fully endorse it.

Their support is very significant, because the 800 members of the association cover a broad spectrum of the industry. About 200 member companies provide raw materials for other members, and many of the firms have annual sales over \$10 million. In terms of employment, about 350 of the members have between 20 and 100 workers, and a number of them have several hundred.

The Paint and Coatings Association knows that many of its members will be affected by the bill's high risk notification and medical monitoring programs, and they have told me that it's the right thing to do.

Since we started developing the bill, we have worked with many different organizations—health, environmental, labor, and business groups, and this cooperation has increased support for the bill and also strengthened and improved it.

At \$25 million a year, H.R. 162 is a cost-effective program that identifies workers at high risk of disease, notifies those workers of the risks, and encourages medical monitoring. It's not a compensation bill, it's a program designed to save lives, and I urge all of my colleagues to support H.R. 162.

#### PROHIBITING DOD TRANSPORTATION CONTRACTS WITH WARSAW PACT COUNTRIES

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, I am introducing legislation designed to prohibit the U.S. Defense Department from acquiring transportation or other services from Warsaw Pact countries. The U.S. Government is spending some \$300 billion on defense and some of this may go to Warsaw bloc countries for construction and transfer of our hardware defense materials.

It is true that the Warsaw Pact nations are in a position to produce and service defense hardware at a cheaper cost than Western, free world countries but the Western Allies cannot become dependent on Soviet-bloc countries for our defense needs nor in this way help their economy. We must be sensitive to the fact that the Warsaw Pact nations may become potential battlefields against preserving democracy.

It is only prudent that if we are to have a sound defense and a strong national security that we must encourage the production and transportation of defense materials from domestic manufacturers and shippers or from nations that make up the free world.

I urge my colleagues to join me in supporting legislation, which I am introducing today, that prohibits the Secretary of Defense from entering into contracts with Warsaw Pact nations in order to provide transportation services for defense. Enactment of this legislation is in the best interests of our national security and the Western, free world.

#### ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES

Ms. OAKAR. Mr. Speaker, I offer a privileged resolution (H. Res. 259) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

##### H. RES. 259

*Resolved*, That the following Members, be, and are hereby, elected to the following standing committees of the House of Representatives:

Committee on House Administration, Joe Kolter; and  
Committee on District of Columbia, Bruce A. Morrison.

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### SECURITIES AND EXCHANGE COMMISSION AUTHORIZATION ACT OF 1987

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 257 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

##### H. RES. 257

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2600) to extend and amend the authorization of appropriation for the Securities and Exchange Commission, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with the provisions of clause 2(1)(6) of rule XI are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and each section shall be con-

sidered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purpose of debate only I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 257 is an open rule providing for the consideration of the bill H.R. 2600, the Securities and Exchange Commission Authorization Act of 1987.

Mr. Speaker, the rule provides 1 hour of general debate, equally divided between the chairman and ranking minority member of the Committee on Energy and Commerce.

All points of order against the bill for failure to comply with clause 2(1)(6) of rule XI, that is the rule which requires that committee reports be available to Members for 3 days prior to the consideration of the bill on the floor, are waived. Although the Committee on Energy and Commerce reported the bill on July 24, 1987 the report was not actually filed until September 8, 1987. However, since printed copies of the report have not been available for the required 3 days a waiver of clause 2(1)(6) is necessary.

Mr. Speaker, the rule also provides that it shall be in order to consider the amendment in the nature of a substitute, recommended by the Committee on Energy and Commerce now printed in the bill as original text for the purpose of amendment under the 5-minute rule, and further provides that the committee substitute shall be considered for amendments by sections, and that each section shall be considered as having been read.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 2600, authorizes \$153.9 million for fiscal year 1988, and \$169 million for fiscal year 1989, for the Securities and Exchange Commission activities. The Commission is responsible to enforce securities law and regulations for all public securities markets. In addition, the Commission collects fees for stock transactions, the filing of certain documents, and tender offers. These fees have enabled the Securities and Exchange Commission to contribute into the U.S. Treasury over the past few years and with a strong

market they will continue their contribution.

Mr. Speaker, the bill also authorizes the funding of \$20 million for fiscal year 1988 and \$15 million for fiscal year 1989 for the Commission to shift from a paper-based system to an electronic system for filing information from corporations and other parties.

Mr. Speaker, we have all seen and heard the stories of corporate corruption and wrongdoing from the stock market to the security industry. What this bill will do is to strengthen the enforcement program of the Commission to continue to investigate and prosecute those who choose to circumvent the law for their own self-interest.

Mr. Speaker, I know of no controversy over the bill or the rule, both have bipartisan support, and I urge the passage of the rule and the bill.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in recent months the Securities and Exchange Commission has been increasingly in the public eye as it has moved more aggressively to enforce the laws against insider trading. They deserve commendation for this undertaking. In a free market system it is important that the Nation's major securities markets be beyond reproach.

Mr. Speaker, unlike most Federal agencies, the SEC brings in more money than it spends. In fiscal year 1986, the SEC collected fees amounting to 203 percent of its budget. We could use a few more self-supporting agencies in this Government.

Mr. Speaker, this bill provides a total authorization for the SEC of \$153.9 million for fiscal year 1988 and \$169 million for fiscal year 1989. These amounts include funds for the Commission's electronic data gathering, analysis, and retrieval system known as EDGAR. The EDGAR system, the implementation of which is subject to certain conditions stated in the bill, would allow companies to file data electronically.

Mr. Speaker, while this bill was reported from the Committee on Energy and Commerce by a voice vote, I should note the administration's opposition to the bill.

The administration objects that the bill would authorize appropriations 6.1 percent above the President's budget request and also that the bill would impose rigid and unnecessary management constraints on the SEC in connection with the development and operation of the EDGAR system.

Mr. Speaker, the rule before us today is an open rule. It includes a waiver of the 3-day layover requirement because the report on the bill was not filed until yesterday. However, I support the rule because it will allow the House to make any necessary improvements in the bill.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 257 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2600.

□ 1129

#### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2600) To extend and amend the authorization of appropriation for the Securities and Exchange Commission, and for other purposes, with Mr. MOAKLEY in the chair.

The Clerk read the title of the bill.

□ 1130

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 30 minutes and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I yield myself such time as I may consume so that I may engage in a discussion of this very important piece of legislation.

Mr. Chairman, I am very pleased to bring to the floor H.R. 2600, the Securities and Exchange Commission Authorization Act of 1987. H.R. 2600 authorizes for the next 2 fiscal years all of the funds requested by the SEC in its budget authorization request for fiscal years 1988 and 1989. This bill authorizes \$153,900,000 for fiscal year 1988 and \$169,000,000 for fiscal year 1989.

H.R. 2600 is truly a bipartisan effort. It was approved by both the Subcommittee on Telecommunications and Finance and the Energy and Commerce Committee by voice vote without dissent. I express my thanks to the chairman of the full committee, Mr. DINGELL, the ranking minority member on the full committee, Mr. LENT, and the ranking minority member on the subcommittee, Mr. RINALDO, for their advice and assistance with regard to this bill.

In supporting the authorization of all of the funds requested by the Commission, I am aware of the budget con-

straints under which all of us operate. I am also mindful, however, that insider trading and other forms of market manipulation are reaching historic levels.

This is a critical time in the history of the Commission. During the past several years, revelations of market manipulation and insider trading regularly have leapt from the front pages of our daily newspapers. There has been considerable concern that the Commission has not sought over the years the level of funding necessary to deal with such market abuses. In my judgment, this is no longer the case. This authorization bill gives the Commission the funds to enable its continuing investigations into these areas to proceed with vigor. When those who would subvert our securities laws understand that the Commission has the funding and other resources necessary to fight them and win, they will think twice before launching their illegal schemes.

In supporting H.R. 2600, it is reassuring to me that a significant portion of the Commission's budget will be devoted to enforcement efforts to help root out these and other securities law violations.

It is imperative that the Commission have sufficient resources to protect the investing public and preserve integrity in our capital markets. The Commission has a critical mission in our capital formation process, and we in Congress must hold it to extremely high standards. In providing the Commission with all of the funds it seeks, we expect it to use them wisely and resourcefully.

This measure also deals directly with the EDGAR [electronic data gathering, analysis, and retrieval] project, which is endorsed by the Commission. The EDGAR system, which has been in a pilot program over the past 2 years, is intended to facilitate the corporate filing process by automatically receiving, accepting, and reviewing annual reports and other SEC filings.

The Commission receives millions of pages of filings each year. Presently, issuers file approximately 65,000 disclosure documents each year, including 3,000 annual reports. The EDGAR system was created to help the Commission deal with these documents in an effective and efficient manner. EDGAR will automate the filing, processing, and dissemination of these filings. Such electronic analysis and dissemination will help foster more informed investor participation and more efficient securities markets.

This bill authorizes \$20,000,000 for 1988 and \$15,000,000 for 1989—the full amounts requested by the Commission—for the purpose of funding a contract for EDGAR. The bill provides further that the Commission will make certain progress and status re-



ports to Congress relating to the EDGAR system.

The Commission will submit a report to the Committees on Banking, Housing, and Urban Affairs and Governmental Affairs of the Senate and the Committees on Energy and Commerce and Government Operations of the House of Representatives on the status of EDGAR development, implementation, and progress at 6-month intervals beginning December 31, 1987, and ending at the close of 1990. The Commission will also certify to Congress information relating to the total EDGAR contract costs to the Federal Government, a cost-benefit analysis, implementation schedule, system capabilities, and competence of the contractor and the SEC EDGAR management, and the results of the mandatory filing test group of registrants. In addition, printed or written filings made during the transition period are intended to be in the same form as is required for filings at the time of the enactment of this legislation.

This report and certification will guide the Commission's implementation of EDGAR, and will help to assure the Congress that as the EDGAR project proceeds, its capabilities and its costs are fully understood and its potential benefits are fully realized.

I would say in closing that H.R. 2600 represents a bipartisan effort designed to give the SEC the funds it needs to serve as an effective force for investors in our increasingly complex capital markets. It deserves broad support. I urge its passage by the House.

Mr. Chairman, I reserve the balance of my time.

Mr. RINALDO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to express my support for H.R. 2600 as passed by the Committee on Energy and Commerce. This bill constitutes a successful effort of Democrats and Republicans to reach a consensus on reauthorizing the SEC which will allow it to carry on all of its essential programs for protecting investors and the public. This bill does several important things.

First, it authorizes the SEC at the funding level it requested for 2 years. I believe that the SEC must have the resources to help clean up Wall Street. We have seen widespread insider trading schemes and other abuses that have reached into some of America's most respected securities firms. The SEC must have the staff and other support it needs to enforce the law.

Second, it provides full funding for the EDGAR computerized filing system. That system will allow corporations, investment companies, and others to file periodic reports at the push of a button. EDGAR will cut costs for filers, speed information to

investors, and provide significant benefits to the public.

This bill does contain provisions that would not have been my choice. I would have preferred a 3-year reauthorization rather than 2 years. I think a 3-year period would have sent a stronger message to the criminals that Congress means business in stopping financial fraud.

In addition, the amendment places extensive reporting and certification requirements on the SEC before it can receive funding for EDGAR. I think it is important for Congress to keep an eye on how EDGAR is proceeding and believe that the Commission should file periodic progress reports. Although I agree with many of the objectives of the reporting and certification requirements, I do not think that a statute is the best place to put these provisions. I am concerned that, despite good intentions on both sides, we will place some certification or reporting requirements in the law that could create unintended problems down the road.

Despite these reservations I believe that it is important for us to have bipartisan support to reauthorize the SEC. Members on both sides of the aisle and our staffs worked together to address all of our concerns and to draft practical legislation.

Mr. Chairman, I want to compliment the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY], for the manner in which he consulted with and worked together with myself and other Members of the minority in putting this bill together. I am satisfied that the legislation will allow the SEC to do the job we want it to do. Therefore, I support the legislation, and I urge my colleagues to do the same. I compliment everyone on both sides of the aisle who worked to put this bill together.

Mr. Chairman, it is important to note that these additional resources constitute a congressional vote of confidence in the SEC. The Commission is doing an excellent job of prosecuting fraud, such as insider trading and the filing of false financial statements. The SEC is also modernizing and improving its disclosure and other regulations to improve investor protections while lowering costs. I commend the SEC and its staff for this fine work and urge the Commission to continue and expand these efforts with the larger budget we are authorizing today.

Mr. MARKEY. Mr. Chairman, again I yield myself such time as I may consume.

Mr. Chairman, I would like to point out that the gentleman from Oklahoma [Mr. ENGLISH] has provided us a very eloquent system on the EDGAR system. That, I believe, will help us to flesh out this record and make it quite

clear that we have to have the technological resources at the Securities Exchange Commission which will make it possible for us to get a better handle on what has transpired in this exploding area of financial transactions in the 1980's.

Mr. Chairman, we have entered into a new technological era that has changed the fundamental nature of the way in which financial services in this country and in the world are in fact provided. As a result of that revolution, we, through this piece of legislation, are trying to get to the SEC the resources which it will need in order to get the job done and to monitor those activities in a way which it has not had the capacity to do before.

Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, I thank the gentleman from Massachusetts [Mr. MARKEY] for yielding time to me, and I would like to commend the gentleman from Massachusetts and the gentleman from New Jersey [Mr. RINALDO] for working out a very good bipartisan bill that deals not only with the necessity of continuing the authorization of SEC but deals with a couple of problems that have been confronted by us in recent years.

Because of budgetary problems perhaps, there has been a tendency, I think, both on the part of the administration to ask for too little and on the part of Congress to allocate too little funding for some of these agencies to carry out the basic functions of their work. The SEC, like a number of other regulatory commissions, was established in order to be able to provide oversight in an industry, and if we inadequately fund that oversight capacity, the kind of thing that we have seen occur in the securities markets is almost invited to occur by that lack of funding. What in fact we need to do and what in fact this bill does is to provide an adequacy of funding for the Securities Exchange Commission, and they have told us and assured the committee that their emphasis will be on enforcement.

A significant portion of these funds that are being authorized in this bill will be allocated to enforcement so that the SEC is going to be able to carry out the basic purposes for which it was established. In fact, this authorization actually reflects a making up for lost time, if you will. We have, by marching in place at a time when things were getting out of control, lost ground, and this authorization is going to permit the SEC to take those actions to be able to catch up and get back in control of the situation and be able to provide the kind of oversight that Congress originally intended the SEC provide over the securities industry in this country.

Again, Mr. Chairman, I commend both the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from New Jersey [Mr. RINALDO] for an excellent job of putting together a good bipartisan bill.

□ 1145

Mr. RINALDO. Mr. Chairman, I yield 4 minutes to my good friend, the gentleman from New York [Mr. LENT], the ranking member of the full committee.

Mr. LENT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I am pleased to speak today in support of this bipartisan compromise proposal to authorize the SEC for the next 2 fiscal years. This bill is a significant accomplishment, and I want to compliment Chairman MARKEY, Chairman DINGELL, and Mr. RINALDO on bringing it to the committee. Above all else, the legislation will provide the SEC with the funding it needs to pursue its vital enforcement efforts in depth, staff its other functions, and implement a new and dramatically expanded information system.

I believe the basic reporting and certification conditions imposed on funding for the EDGAR reporting system are not unreasonable. They do not in any way restrict the Commission's discretion in implementing EDGAR in the manner it finds most cost efficient and technologically sound. I think these purposes could have been achieved in committee report language, with a clean bill, but as long as the conditions imposed are not intended to, and do not place any substantive burdens on the SEC's implementation of EDGAR, and allow its other functions to go forward, I am willing to accept them in the legislation. I know all Members will be interested in keeping abreast of developments with the EDGAR system, and this bill ensures that we will have timely notice of any potential problems that occur.

Again, this bill carefully balances a number of competing concerns, and I hope the Members will approve it quickly so that the SEC can get early assurance that it will have the resources to continue doing the fine job we want it to do.

Mr. RINALDO. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana [Mr. COATS].

Mr. COATS. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to commend to the Members on this bipartisan, compromise legislation which is before the House today.

I think a lot of good work has been done with this bill to reauthorize the Securities and Exchange Commission, and Members on both sides who have been involved ought to be commended

for the many hours of efforts in putting this bill together.

The bill ought to be supported for a number of reasons, but let me just state one or two.

Probably the most critical component in our securities system is the confidence of the American people that the system not only is efficient and effective, but that it is fair and honest and aboveboard.

Wall Street has been robbed by some scandals in recent years, particularly in the last several months, which have shaken that confidence.

While it is imperative for Wall Street itself internally to provide the effective oversight and enforcement to make sure that its members abide by the rules and the laws, it is also imperative for the public to know that there is a vigorous, effective, efficient enforcement agency overseeing the operations of Wall Street and protecting the investor from fraud and crime and insider trading, and a number of other things that have unfortunately happened in recent months and years.

By providing for an effective, efficient SEC, we can help provide that confidence, provide that assurance that our system is aboveboard, and that the small investor has nothing to fear by investing hard-earned savings into equities, bonds, or other markets that are operated through our securities trading system.

The charge is made that perhaps we are giving the SEC too much money. Let me just state that at a time when the SEC caseload has increased by a tremendous amount, we are providing the SEC with what is probably just barely enough money to cope with that increase in both trading volume and the number of cases.

The SEC is one of the real profit centers of government. In the 1986 fiscal year it returned 203 percent of its budget to the Treasury with receipts taken in from fines, fees, and other revenues.

If every Federal agency did that, and I am not suggesting that every Federal agency could or should do that; but if every one did that, it is interesting to note that we would have a \$2 trillion surplus facing us rather than the deficit, so let us not look at the SEC budget as something that is overgrown.

It returns far more money to the Treasury than we pay out to run the place.

This year alone, the SEC extracted \$100 million in penalties and fines from one individual alone.

It is important, as I said, that we have an agency that is able to go out and hire the best talent available, pay competitive salaries to its enforcement people and its legal people.

We are talking about people here who need a considerable amount of education and training to be able to be

involved in and be effective at resolving all of the intricacies of stock trading, and some of the fraud that goes on. So let us give this agency the working capital to do the job it has been assigned to do, and provide the American people the security that they have a fair, effective, and efficient system.

I urge my colleagues to support this legislation.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, outstanding work has been done on this legislation by the subcommittee. The gentleman from Massachusetts [Mr. MARKEY], the distinguished chairman of the subcommittee, has continued the excellent work and leadership in this area, and is indeed to be commended by the Members, as are the gentleman from New Jersey [Mr. RINALDO], the distinguished ranking minority member, and the gentleman from New York [Mr. LENT], my good friend and colleague.

This is a fine piece of legislation. It reflects careful and thorough work on the part, not only of the leaders of the subcommittee, but also on the part of the subcommittee.

It will take steps to assure that the SEC has the means, the skill and the willingness to follow forward in seeing that our investors are protected, and that the confidence in the public may remain intact in the marketplace at a time when rascality abounds.

I urge the Members to support the legislation, and I yield back the balance of my time.

Mr. ENGLISH. Mr. Chairman, I rise in support of H.R. 2600, the Securities and Exchange Commission Authorization Act of 1987. I want to comment in particular about the provisions of the bill that authorize the SEC to establish the EDGAR system.

EDGAR is a grand experiment that is being watched closely by many Federal agencies and by others with an interest in the future of Government information policy. EDGAR is the most ambitious attempt by a Federal agency to establish a large electronic data base. Whether EDGAR succeeds or not will affect how other agencies proceed with automation of information systems.

I have developed a special interest in EDGAR in my role as chairman of the Government Operations Committee's Subcommittee on Government Information, Justice, and Agriculture. In the 99th Congress, my subcommittee held several days of hearings on the general subject of electronic collection and dissemination of information by Federal agencies. The SEC was one of many agencies that testified about its electronic information plans. The subcommittee's hearings resulted in a report approved by the Committee on Government Operations entitled "Electronic Collec-



tion and Dissemination of Information by Federal Agencies: A Policy Overview" (H. Rept. 99-560).

The EDGAR authorization language in H.R. 2600 is consistent with the policy goals set out in that report. I want to thank Chairman MARKEY and Chairman DINGELL and the staffs of both committees for their interest, support, and cooperation. I am pleased that the work of my subcommittee was helpful.

I think that it is important that the authorization for EDGAR contains conditions, restrictions, and reporting requirements. The planning process for EDGAR over the last few years does not engender much confidence in the ability of the SEC to design and implement such a large computer system.

When former SEC Chairman John Shad testified before my subcommittee in 1985, he said that EDGAR wouldn't cost the Government a cent. He expected that a private contractor would spend \$63 million to establish and operate EDGAR and would provide free service to the SEC. I said at the time that this was totally unrealistic.

Several months later, the SEC indicated that it might be necessary to pay the EDGAR contractor as much as half a million dollars annually. Still later, the SEC indicated that it would have to pay more of the costs in order to find a contractor to operate the system.

Now the SEC has finally recognized what was clear to others all along. EDGAR will not be free and it will not be cheap. The Government will have to pay its full share of the costs. As envisioned in H.R. 2600, the Government's contribution will be \$46.5 million. This is a far cry from the cost-free system that the SEC originally promised. While it would be nice to get something for nothing, it is not very realistic.

H.R. 2600 imposes several reasonable conditions and reporting requirements for the EDGAR system. These are designed to ensure that the SEC will not continue to change the structure or the financing of EDGAR. We need to make certain that the Government's contribution is both reasonable and within budget. We now know that EDGAR will cost the Government more than \$40 million in excess of the original estimate. We don't want to learn when it is too late that there will be another \$40 million cost overrun.

The legislation also includes several operational requirements for EDGAR. The most important is a provision that allows information from the EDGAR system to be used, resold, or redisseminated without restriction and without payment of any additional fees or royalties. While this language primarily reflects current law regulating the sale of uncopyrighted Government information, it also helps to assure that no one will be able to establish a monopoly over securities information in electronic form. Those who obtain securities information directly from the EDGAR contractor or indirectly from other disseminators will be able to use and redisseminate the basic EDGAR data without restriction.

One consequence of unrestricted use and disclosure of EDGAR information is that the Commission's role in setting prices for wholesale services is likely to be of limited importance. If the market for information works according to theory, the market will not support

a price for uncopyrighted information that is higher than the marginal cost of providing the information. If prices much higher than marginal cost are permitted, it is likely that a secondary wholesale market will be established to meet demand at a lower price. Since the information will be in the public domain, there is nothing to prevent a secondary market unless artificial barriers are created or tolerated by the SEC. The creation of any secondary wholesale market for EDGAR data will be evidence that the prices set by the SEC are too high. A complete analysis of the effect of access and use restrictions on the price of information can be found in report of the Committee on Government Operations Committee that I just mentioned.

Other language in the bill is also designed to assure a level playing field for all retail vendors of EDGAR information. This language provides that public information in the EDGAR system must be equally available on equal terms to all persons. I understand that this is intended to ensure that the EDGAR contractor has no financial or other advantage over others who will be competing to sell securities information in the retail marketplace.

I think that the Energy and Commerce Committee has done as good a job as it is possible to do in setting the legislative groundwork for EDGAR. But we have to recognize that some doubts about the viability of EDGAR remain. We cannot be sure that the SEC will be able to deliver the system that it has promised. There have been too many major changes in the structure of EDGAR over the past 2 years to allow anyone to feel comfortable with the SEC's current assurances.

We cannot be sure that EDGAR can be built and operated with the budget now envisioned. I think that there is a reasonable chance that EDGAR will cost far more than anyone now thinks. The company that wins the EDGAR contract will be taking a considerable financial risk. The risk is even bigger if the winning contractor expects the Congress to bail it out in a year or two.

We cannot be sure that EDGAR will work as planned. While the SEC has done a good job with the pilot for EDGAR, the full system will be so large that it may take a considerable period of time for the problems to be worked out. In order to avoid a disruption to the securities markets, the legislation provides for the continuation of paper filings until such time as EDGAR has been convincingly demonstrated to work. We have all lived through problems with new computer systems. We cannot take a chance with the Nation's securities markets until EDGAR has been demonstrated to be a success.

We cannot be sure that EDGAR will be effective in making securities information available to a broad audience. There is a chance that the SEC will approve a pricing structure for EDGAR information that will give its contractor a de facto monopoly over the data. If that happens, then EDGAR will have been a failure and it will be necessary for the Congress to reconsider the value and the structure of EDGAR.

Finally, one of my primary concerns about EDGAR and other similar Government information systems is that the economics of operating the systems will create a demand for re-

stricting the information so that users can be charged higher prices. If, as I suspect, the SEC is not asking for enough money to fund the EDGAR system, then the SEC or its contractor may ask for authority to copyright or otherwise limit use of information in order to support higher prices. Any such restrictions on Government information would be contrary to the information policies of the United States for 200 years.

It is vital that routine Government information—like the information in the EDGAR system—remain uncopyrighted, readily available, and usable by the public without restriction. I will oppose any future attempts to restrict the availability or use of Government information that is now in the public domain.

EDGAR is not the first electronic information system to be the subject of legislation. In the last Congress, legislation was passed to regulate the creation of an electronic data base for patent and trademark information by the Patent and Trademark Office. In the future, I expect to see additional legislation authorizing, funding, and regulating large agency electronic information systems.

There is no question that electronic information systems offer an opportunity to increase the efficiency of agency information activities, make Government information more widely available, and permit agencies and others to make better use of the data. Yet the new technology is putting considerable pressure on the laws that were passed to regulate Government information policy when information only existed on paper or other hard copy formats.

There may soon be a need to revisit some of these laws in order to recognize the consequences of the new technology. For example, there may be a need to pass an Electronic Freedom of Information Act in order to make certain that the benefits of broad disclosure of Government information are not lost as Government information becomes electronic. We cannot allow the new information technology to undercut the basic principles of openness in Government that have served us so well in the last two decades. I feel confident that the bill we are considering today will preserve those principles for the EDGAR system.

Mr. RINALDO. Mr. Chairman, I have no further requests for time.

Mr. MARKEY. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered by sections as an original bill for the purpose of amendment, and each section shall be considered as having been read.

The Clerk will designate section 1.

Mr. MARKEY. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2600

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities and Exchange Commission Authorization Act of 1987".

#### SEC. 2. AUTHORIZATION OF AND LIMITATIONS ON APPROPRIATIONS.

Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:

##### "AUTHORIZATION OF APPROPRIATIONS

"SEC. 35. (a) There are hereby authorized to be appropriated to carry out the functions, powers, and duties of the Commission (other than the functions, powers, and duties described in subsection (b))—

"(1) \$133,900,000 for fiscal year 1988; and

"(2) \$154,000,000 for fiscal year 1989.

"(b) In addition to the amounts authorized by subsection (a), there are authorized to be appropriated to the Commission for the purpose of funding a contract for the establishment and operation of the electronic data gathering, analysis, and retrieval ('EDGAR') system—

"(1) \$20,000,000 for fiscal year 1988; and

"(2) subject to section 35A(a)(2) of this title, \$15,000,000 for fiscal year 1989."

#### SEC. 3. REQUIREMENTS FOR THE EDGAR SYSTEM.

The Securities Exchange Act of 1934 is amended by inserting after section 35 the following new section:

##### "REQUIREMENTS FOR THE EDGAR SYSTEM

"SEC. 35A. (a)(1) Of the funds appropriated to the Commission pursuant to section 35 of this title for fiscal year 1988 which are available for establishment or operation of the electronic data gathering, analysis, and retrieval ('EDGAR') system, the Commission shall reserve \$15,000,000. None of the funds that are so reserved may be obligated or expended unless the Commission has made the certification required by subsection (c) of this section.

"(2) Notwithstanding section 35(b) of this title, no funds are authorized to be appropriated for fiscal year 1989, and no such funds may be obligated or expended, for the establishment or operation of the EDGAR system unless the Commission has—

"(A) filed each report required during fiscal year 1988 by subsection (b) of this section; and

"(B) made the certification required by subsection (c) of this section.

"(3) Amounts appropriated to the Commission for the EDGAR contract shall be the exclusive source of funds for the procurement and operation of the systems created under that contract by or on behalf of the Securities and Exchange Commission—

"(A) for the receipt of filings under Federal securities laws, and

"(B) for the automated acceptance and review of the filings and information derived from such filings.

"(b) The Commission shall submit a report to the Committees on Banking, Housing, and Urban Affairs and Governmental Affairs of the Senate and the Committees on Energy and Commerce and Government Operations of the House of Representatives on the status of EDGAR development, implementation, and progress at six-month intervals beginning December 31, 1987, and ending at the close of 1990 (unless otherwise

extended by the Congress). Such report shall include the following:

"(1) The overall progress and status of the project, including achievement of significant milestones and current project schedule.

"(2) The results of Commission efforts to test new or revised technical solutions for key EDGAR functions. In particular, the following functions shall be addressed and the indicated information provided:

"(A) Automating receipt and acceptance processing, including—

"(i) development and testing progress and results;

"(ii) actual versus estimated development cost; and

"(iii) actual effect of this function on Commission staff needs to assist filers.

"(B) Data tagging (identifying financial data for analysis by EDGAR), including—

"(i) description of the approach selected, identifying the types of financial data to be tagged and the calculations to be performed;

"(ii) comments by the filer population on the approach selected;

"(iii) the results of testing this approach, including information on the number of filers taking part in the test and their representatives of the overall filer populations;

"(iv) actual versus estimated development cost; and

"(v) effect of implementing this function on EDGAR benefits.

"(C) Searching text for keywords, including—

"(i) the technical approach adopted for this function;

"(ii) development and testing progress and results;

"(iii) data storage requirements and search response times as compared to EDGAR pilot system experience;

"(iv) actual versus estimated development cost; and

"(v) effect of implementing this function on EDGAR benefits.

"(3) An update of cost information for the receipt, acceptance and review, and dissemination portions of the system including a comparison of actual costs with original estimated costs and revised estimates of total system cost and total funding needs for the contract.

"(4) The status of Commission efforts to obtain and maintain staff with the proper contractual, managerial, and technical expertise to oversee the EDGAR project.

"(5) The fees, revenues, costs, and profits obtained or incurred by the contractor as a result of the required dissemination of information from the system to the public under the EDGAR contract, except that the information required under this paragraph (A) need be obtained from the contractor no more frequently than once each year, and (B) may be submitted to the Congress as a separate confidential document.

"(6) Such other information or recommendations as the Commission considers appropriate.

"(c) On or before the date the Commission enters into the contract for the EDGAR system, the Commission shall submit to the Committees on Banking, Housing, and Urban Affairs and Governmental Affairs of the Senate and the Committees on Energy and Commerce and Government Operations of the House of Representatives a certification by the Commission—

"(1) of the total contract costs to the Federal Government of the EDGAR system for each of the 3 succeeding fiscal years;

"(2) that the Commission has analyzed the quantitative and qualitative benefits to be obtained by the establishment and operation of the system and has determined that such benefits justify the costs certified pursuant to paragraph (1);

"(3) that (A) the contract requires the contractor to establish a schedule for the implementation of the system; (B) the Commission has reviewed and approved that schedule; and (C) the contract contains adequate assurances of contractor compliance with that schedule;

"(4) of the capabilities which the system is intended to provide and of the competence of the contractor and of Commission personnel to implement those capabilities; and

"(5) that mandatory filings from a significant test group of registrants will be received and reviewed by the Commission for a period of at least six months before the adoption of any rule requiring mandatory filing by all registrants.

(d) The Commission, by rule or regulation—

"(1) shall provide that any information in the EDGAR system that is required to be disseminated by the contractor—

"(A) may be sold or disseminated by the contractor only pursuant to a uniform schedule of fees prescribed by the Commission;

"(B) may be obtained by a purchaser by direct interconnection with the EDGAR system;

"(C) shall be equally available on equal terms to all persons; and

"(D) may be used, resold, or redisseminated by any person who has lawfully obtained such information without restriction and without payment of additional fees or royalties; and

"(2) shall require that persons, or classes of persons, required to make filings with the Commission submit such filings in a form and manner suitable for entry into the EDGAR system and shall specify the date that such requirement is effective with respect to that person or class; except that the Commission may exempt persons or classes of persons, or filings or classes of filings, from such rules or regulations in order to prevent hardships or to avoid imposing unreasonable burdens or as otherwise may be necessary or appropriate; and

"(3) shall require all persons who make any filing with the Commission, in addition to complying with such other rules concerning the form and manner of filing as the Commission may prescribe, to submit such filings in written or printed form—

"(A) for a period of at least one year after the effective date specified for such person or class under paragraph (2); or

"(B) for a shorter period if the Commission determines that the EDGAR system (i) is reliable, (ii) provides a suitable alternative to such written and printed filings, and (iii) assures that the provision of information through the EDGAR system is as effective and efficient for filers, users, and disseminators as provision of such information in written or printed form.

"(e) For the purposes of carrying out its responsibilities under subsection (d)(3) of this section, the Commission shall consult with representatives of persons filing, disseminating, and using information contained in filings with the Commission."

The CHAIRMAN. Are there any amendments to the committee amendment in the nature of a substitute?



If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker pro tempore. [Mr. NATCHER] having assumed the chair, Mr. MOAKLEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 2600) to extend and amend the authorization of appropriation for the Securities and Exchange Commission, and for other purposes, pursuant to House Resolution 257, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2600, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

□ 1155

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 1452) to amend the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, and the Investment Advisers Act of 1940 to make certain technical, clarifying, and conforming amendments, to authorize appropriations to the Securities and Exchange Commission, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1452

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Securities Law Technical Amendments Act of 1987".*

#### TITLE I—AMENDMENTS OF SECURITIES ACT OF 1933

SEC. 101. Section 2(5) of the Securities Act of 1933 (15 U.S.C. 77b(5)) is amended by striking out "Federal Trade Commission" and inserting in lieu thereof "Securities and Exchange Commission".

SEC. 102. Section 2(6) of the Securities Act of 1933 (15 U.S.C. 77b(6)) is amended by striking out "Canal Zone".

SEC. 103. Section 3(a)(1) of the Securities Act of 1933 (15 U.S.C. 77c(a)(1)) is amended by striking all that appears therein and inserting in lieu thereof "(1) Reserved."

SEC. 104. Section 3(a)(5)(A) of the Securities Act of 1933 (15 U.S.C. 77c(a)(5)(A)) is amended by striking out ", except that the foregoing exemption shall not apply with respect to any such security where the issuer takes from the total amount paid or deposited by the purchaser, by way of any fee, cash value or other device whatsoever, either upon termination of the investment at maturity or before maturity, an aggregate amount in excess of 3 per centum of the face value of such security".

SEC. 105. Section 6(e) of the Securities Act of 1933 (15 U.S.C. 77f(e)) is repealed.

SEC. 106. Section 9(a) of the Securities Act of 1933 (15 U.S.C. 77i(a)) is amended—

(1) by striking out "Circuit Court of Appeals" and inserting in lieu thereof "court of appeals";

(2) by striking out "Court of Appeals of the District of Columbia, by filing in such court" and inserting in lieu thereof "United States Court of Appeals for the District of Columbia, by filing in such Court"; and

(3) by striking out "sections 239 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 346 and 347)" and inserting in lieu thereof "section 1254 of title 28, United States Code".

SEC. 107. Section 19(c) of the Securities Act of 1933 (15 U.S.C. 77s(c)) is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of law, neither the Commission nor any other person shall be required to establish any procedures not specifically required by the securities laws, as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934, or by chapter 5 of title 5, United States Code, in connection with cooperation, coordination, or consultation with—

"(A) any association referred to in paragraph (1) or (3) or any conference or meeting referred to in paragraph (4), while such association, conference, or meeting is carrying out activities in furtherance of the provisions of this subsection; or

"(B) any forum, agency, or organization, or group referred to in section 503 of the Small Business Investment Incentive Act of 1980, while such forum, agency, organization, or group is carrying out activities in furtherance of the provisions of such section 503.

As used in this paragraph, the terms 'association', 'conference', 'meeting', 'forum', 'agency', 'organization', and 'group' include any committee, subgroup, or representative of such entities."

SEC. 108. (a) Section 20(b) of the Securities Act of 1933 (15 U.S.C. 77t(b)) is amended by striking out the first sentence and inserting in lieu thereof the following: "Whenever it shall appear to the Commission that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this title, or of any rule or regula-

tion prescribed under authority thereof, the Commission may, in its discretion, bring an action in any district court of the United States, or United States court of any Territory, to enjoin such acts or practices, and upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond."

(b) Section 20(c) of such Act (15 U.S.C. 77t(c)) is amended to read as follows:

"(c) Upon application of the Commission, the district courts of the United States and the United States courts of any Territory shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this title or any order of the Commission made in pursuance thereof."

SEC. 109. Section 22(a) of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended—

(1) by striking out "United States, the" in the first sentence and inserting in lieu thereof "United States and";

(2) by striking out ", and the United States District Court for the District of Columbia"; and

(3) by striking out "sections 128 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 225 and 347)" and inserting in lieu thereof "sections 1254, 1291, 1292, and 1294 of title 28, United States Code."

#### TITLE II—AMENDMENTS OF SECURITIES EXCHANGE ACT OF 1934

SEC. 201. Section 3(a)(6)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6)(C)) is amended by striking out "under section 11(k) of the Federal Reserve Act, as amended" and inserting in lieu thereof "under the authority of the Comptroller of the Currency pursuant to the first section of Public Law 87-722 (12 U.S.C. 92a)".

SEC. 202. Section 3(a)(16) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(16)) is amended by striking out "the Canal Zone,".

SEC. 203. Section 3(a)(22)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(22)(B)) is amended—

(1) by striking out "association or any" and inserting in lieu thereof "association, or any"; and

(2) by striking out "own behalf in" and inserting in lieu thereof "own behalf, in".

SEC. 204. Section 3(a)(34)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)(C)) is amended by striking out "state" each place it appears and inserting in lieu thereof "State".

SEC. 205. Section 3(a)(39)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(39)(B)) is amended—

(1) by striking out "months, revoking" and inserting in lieu thereof "months, or revoking"; and

(2) by striking out "barring his" and inserting in lieu thereof "barring or suspending for a period not exceeding 12 months his".

SEC. 206. Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended—

(1) by inserting after paragraph (46) the following:

"(47) The term 'securities laws' means the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), the Investment Advisers Act of 1940 (15

U.S.C. 80b et seq.), and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.); and

(2) by adding at the end thereof the following:

"(49) The term 'person associated with a transfer agent' and 'associated person of a transfer agent' mean any person (except an employee whose functions are solely clerical or ministerial) directly engaged in the management, direction, supervision, or performance of any of the transfer agent's activities with respect to transfer agent functions, and any person directly or indirectly controlling such activities or controlled by the transfer agent in connection with such activities."

Sec. 207. Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, whenever any fee is required to be paid to the Commission pursuant to any provision of the securities laws or any other law, the Commission may provide by rule that such fee shall be paid in a manner other than in cash."

Sec. 208. (a) The Securities Exchange Act of 1934 is amended by inserting after section 4 (15 U.S.C. 78d) the following new sections:

#### "DELEGATION OF FUNCTIONS BY COMMISSION"

"Sec. 4A. (a) In addition to its existing authority, the Securities and Exchange Commission shall have the authority to delegate, by published order or rule, any of its functions to a division of the Commission, an individual Commissioner, an administrative law judge, or an employee or employee board, including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter. Nothing in this section shall be deemed to supersede the provisions of section 556(b) of title 5, or to authorize the delegation of the function of rulemaking as defined in subchapter II of chapter 5 of title 5, United States Code, with reference to general rules as distinguished from rules of particular applicability, or of the making of any rule pursuant to section 19(c) of this title.

"(b) With respect to the delegation of any of its functions, as provided in subsection (a) of this section, the Commission shall retain a discretionary right to review the action of any such division of the Commission, individual Commissioner, administrative law judge, employee, or employee board, upon its own initiative or upon petition of a party to or intervenor in such action, within such time and in such manner as the Commission by rule shall prescribe. The vote of one member of the Commission shall be sufficient to bring any such action before the Commission for review. A person or party shall be entitled to review by the Commission if he or it is adversely affected by action at a delegated level which (1) denies any request for action pursuant to section 8(a) or section 8(c) of the Securities Act of 1933 or the first sentence of section 12(d) of this title; (2) suspends trading in a security pursuant to section 12(k) of this title; or (3) is pursuant to any provision of this title in a case of adjudication, as defined in section 551 of title 5, United States Code, not required by this title to be determined on the record after notice and opportunity for hearing (except to the extent there is involved a matter described in section 554(a)(1) through (6) of such title 5).

"(c) If the right to exercise such review is declined, or if no such review is sought within the time stated in the rules promulgated by the Commission, then the action of any such division of the Commission, individual Commissioner, administrative law judge, employee, or employee board, shall, for all purposes, including appeal or review thereof, be deemed the action of the Commission.

#### "TRANSFER OF FUNCTIONS WITH RESPECT TO ASSIGNMENT OF PERSONNEL TO CHAIRMAN"

"Sec. 4B. In addition to the functions transferred by the provisions of Reorganization Plan Numbered 10 of 1950 (64 Stat. 1265), there are hereby transferred from the Commission to the Chairman of the Commission the functions of the Commission with respect to the assignment of Commission personnel, including Commissioners, to perform such functions as may have been delegated by the Commission to the Commission personnel, including Commissioners, pursuant to section 4A of this title."

(b) The Act of August 20, 1962 (Public Law 87-592; 76 Stat. 394) is hereby repealed.

Sec. 209. The first sentence of section 6(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(c)(2)) is amended by striking out "protection shall" and inserting in lieu thereof "protection of investors shall".

Sec. 210. Section 6(c)(3)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(c)(3)(A)) is amended by striking out "association" and inserting in lieu thereof "associated".

Sec. 211. Section 6(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(c)(4)) is amended by striking out "may (A) limit" and inserting in lieu thereof "may limit (A)".

Sec. 212. Section 6(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(e)) is amended—

(1) by striking out "paragraph (4) of this section" in paragraph (1) and inserting in lieu thereof "paragraph (3) of this subsection";

(2) by striking out paragraph (3) thereof and by redesignating paragraph (4) as paragraph (3); and

(3) in paragraph (3)(E) (as so redesignated)—

(A) by striking out "fixes" and inserting in lieu thereof "fixing";

(B) by striking out "paragraph (4)(A)" and inserting in lieu thereof "subparagraph (A) of this paragraph"; and

(C) by striking out "paragraph (4)(B)" and inserting in lieu thereof "subparagraph (B) of this paragraph".

Sec. 213. Section 11A of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1) is amended—

(1) by striking out "transaction" in paragraph (2) of subsection (b) and inserting in lieu thereof "transactions"; and

(2) by striking out everything after the first sentence in paragraph (4) of subsection (c).

Sec. 214. Sections 11A(e) and 12(m) of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1(e) and 78m) are repealed.

Sec. 215. Section 13(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(c)) is amended by striking out "thereof of" and inserting in lieu thereof "thereof".

Sec. 216. Section 13(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(h)) is repealed.

Sec. 217. Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended—

(1) by striking out "fiduciary, or any" in clause (ii) of subparagraph (B) of paragraph (4) and inserting in lieu thereof "fiduciary, transfer agent, or";

(2) by striking out subparagraph (C) of paragraph (4) and inserting in lieu thereof the following:

"(C) is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security."

(3) by striking out "or seeking to become associated," in the first sentence of paragraph (6) and inserting in lieu thereof "seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated"; and

(4) by striking out "17A(b)(4)(B)" in paragraph (10) and inserting in lieu thereof "17A(b)(4)(A)".

Sec. 218. Section 15B(b)(2)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(b)(2)(C)) is amended—

(1) by striking out "security" and inserting in lieu thereof "securities";

(2) by striking out "or the securities"; and

(3) by striking out "burden or competition" and inserting in lieu thereof "burden on competition".

Sec. 219. Section 15B(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(4)) is amended by striking out the first sentence and inserting in lieu thereof the following: "The Commission, by order, shall censure or place limitations on the activities or functions of any person associated, seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated with a municipal securities dealer, or suspend for a period not exceeding twelve months or bar any such person from being associated with a municipal securities dealer, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title, has been convicted by any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4)."

Sec. 220. Section 15B(c)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(6)(A)) is amended by striking out "board" and inserting in lieu thereof "Board".

Sec. 221. Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended—

(1) by striking out subsection (c)(2) and inserting in lieu thereof the following:

"(2) The appropriate regulatory agency for a clearing agency, transfer agent, or municipal securities dealer for which the Commission is not the appropriate regulatory



agency shall file with the Commission notice of the commencement of any proceeding and a copy of any order entered by such appropriate regulatory agency against any clearing agency, transfer agent, municipal securities dealer, or person associated with a transfer agent or municipal securities dealer, and the Commission shall file with such appropriate regulatory agency, if any, notice of the commencement of any proceeding and a copy of any order entered by the Commission against the clearing agency, transfer agent, or municipal securities dealer, or against any person associated with a transfer agent or municipal securities dealer for which the agency is the appropriate regulatory agency."

(2) by adding at the end of subsection (f)(2) the following: "Notwithstanding any other provision of law, in providing identification and processing functions, the Attorney General shall provide the Commission and self-regulatory organizations designated by the Commission with access to all criminal history record information."; and

(3) by striking out "paragraphs (1) and (2)" in subsection (f)(3)(A) and inserting in lieu thereof "paragraph (1)".

Sec. 222. Section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) is amended—

(1) by inserting after "concerning such transfer agent" in subsection (c)(2) "and any persons associated with the transfer agent";

(2) by striking out "thirty" in subsection (c)(2) and inserting in lieu thereof "45";

(3) by redesignating subparagraphs (B) and (C) of subsection (c)(3) as subparagraphs (A) and (B), respectively, of new subsection (c)(4);

(4) by striking out subsection (c)(3)(A) and inserting in lieu thereof:

"(3) The appropriate regulatory agency for a transfer agent, by order, shall deny registration to, censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of such transfer agent, if such appropriate regulatory agency finds, on the record after notice and opportunity for hearing, that such denial, censure, placing of limitations, suspension, or revocation is in the public interest and that such transfer agent, whether prior or subsequent to becoming such, or any person associated with such transfer agent, whether prior or subsequent to becoming so associated—

"(A) has committed or omitted any act enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within ten years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4); or

"(B) is subject to an order entered pursuant to subparagraph (C) of paragraph (4) of this subsection barring or suspending the right of such person to be associated with a transfer agent.";

(5) by inserting after subsection (c)(4)(B) (as redesignated) the following new subparagraph:

"(C) The appropriate regulatory agency for a transfer agent, by order, shall censure or place limitations on the activities or functions of any person associated, seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated with the transfer agent,

or suspend for a period not exceeding twelve months or bar any such person from being associated with the transfer agent, if the appropriate regulatory agency finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed or omitted any act enumerated in subparagraph (A), (D), or (E) or paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within ten years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4). It shall be unlawful for any person as to whom such an order suspending or barring him from being associated with a transfer agent is in effect willfully to become, or to be, associated with a transfer agent without the consent of the appropriate regulatory agency that entered the order and the appropriate regulatory agency for that transfer agent. It shall be unlawful for any transfer agent to permit such a person to become, or remain, a person associated with it without the consent of such appropriate regulatory agencies, if the transfer agent knew, or in the exercise of reasonable care should have known, of such order. The Commission may establish, by rule, procedures by which a transfer agent reasonably can determine whether a person associated or seeking to become associated with it is subject to any such order, and may require, by rule, that any transfer agent comply with such procedures.";

(6) by striking out "clearing agency or transfer agent" in subsection (d)(3)(B) and inserting in lieu thereof "clearing agency, transfer agent, or person associated with a transfer agent"; and

(7) by striking out "or transfer agent" in subsection (d)(4), and inserting in lieu thereof ", transfer agent, or person associated with a transfer agent,".

Sec. 223. Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended—

(1) by striking out "Wherever" in subsection (d) and inserting in lieu thereof "Whenever";

(2) by striking out ", the United States District Court for the District of Columbia," in subsection (e); and

(3) by striking out the second sentence of subsection (g).

Sec. 224. Section 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(a)) is amended—

(1) by inserting "or" before "any self-regulatory organization" in the last sentence of paragraph (1); and

(2) by inserting "shall" after "section 19(b) of this title," in paragraph (3).

Sec. 225. Section 23(b)(4)(F) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(b)(4)(F)) is amended by striking out "The" and inserting in lieu thereof "the".

Sec. 226. Section 27 of the Securities Exchange Act of 1934 (15 U.S.C. 78aa) is amended—

(1) by striking out ", the United States District Court for the District of Columbia,"; and

(2) by striking out "sections 128 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 225 and 347)" and inserting in lieu thereof "sections 1254, 1291, 1292, and 1294 of title 28, United States Code".

Sec. 227. Section 28(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(c)) is

amended by striking out "self-regulatory organization or a member thereof" and inserting in lieu thereof "self-regulatory organization on a member thereof".

Sec. 228. Section 28(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(d)) is amended by striking out "change is beneficial" and inserting in lieu thereof "change in beneficial".

Sec. 229. Section 28(e)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(e)(1)) is amended by striking out "Amendments in 1975" and inserting in lieu thereof "Amendments of 1975".

Sec. 230. Section 211 of the Securities Exchange Act of 1934 (15 U.S.C. 78jj) is hereby repealed.

### TITLE III—AMENDMENTS OF PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Sec. 301. Section 8 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79h) is amended by striking out "otherwise," and inserting in lieu thereof "otherwise —".

Sec. 302. Section 18 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 78r) is amended—

(1) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively; and

(2) in subsections (e) and (f) (as so redesignated), by striking out ", the district court of the United States for the District of Columbia,".

Sec. 303. Section 24 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 78x) is amended by striking out "sections 239 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 346 and 347)" and inserting in lieu thereof "section 1254 of title 28, United States Code".

Sec. 304. Section 25 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79y) is amended—

(1) by striking out ", the district court of the United States for the District of Columbia,"; and

(2) by striking out "sections 128 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 225 and 347), and section 7, as amended, of the Act entitled 'An Act to establish a court of appeals for the District of Columbia', approved February 9, 1893 (D.C. Code, title 18, sec. 26)" and inserting in lieu thereof "sections 1254, 1291, 1292, and 1294 of title 28, United States Code".

Sec. 305. Section 30 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-4) is amended by striking out the last sentence thereof.

### TITLE IV—AMENDMENT OF TRUST INDENTURE ACT OF 1939

Sec. 401. Section 303(4) of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc(4)) is amended by striking out "undertakng" and inserting in lieu thereof "undertaking".

Sec. 402. Section 303(12) of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc(12)) is amended by inserting "(including a guarantor)" after "person" each place it appears.

### TITLE V—AMENDMENTS OF INVESTMENT COMPANY ACT OF 1940

Sec. 501. Section 2(a)(19) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)) is amended by inserting "completed" before "fiscal years" each place it appears.

Sec. 502. Section 2(a)(39) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(39)) is amended by striking out "the Canal Zone,".

Sec. 503. Section 2(a)(48)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48)(B)) is amended by striking out "sections 55(a)(1) through (3)" and inserting in lieu thereof "paragraphs (1) through (3) of section 55(a)".

Sec. 504. Section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(3)) is amended—

(1) by inserting "or" after "therefor"; and  
(2) by inserting a period after "guardian" and striking out all that follows through "principal to another or others."

Sec. 505. Section 3(c)(7) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(7)) is amended to read as follows:

"(7) Reserved."

Sec. 506. Section 3(c)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(11)) is amended—

(1) by striking out "Code of 1954" each place it appears and inserting in lieu thereof "Code of 1986";

(2) by striking out "or which holds only assets of governmental plans" and inserting in lieu thereof "or any governmental plan"; and

(3) by striking out "trusts," and inserting in lieu thereof "trusts or governmental plans, or both";

Sec. 507. Section 5(a)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-5(a)(2)) is amended by striking out "Close-end" and inserting in lieu thereof "Closed-end".

Sec. 508. Section 6(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-6(a)) is amended—

(1) by striking out "the Canal Zone," in paragraph (1); and

(2) by striking out paragraph (2) and redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

Sec. 509. Section 9 of the Investment Company Act of 1940 (15 U.S.C. 80a-9) is amended by striking out paragraphs (1) and (2) in subsection (a) and inserting in lieu thereof the following:

"(1) any person who within 10 years has been convicted of any felony or misdemeanor involving the purchase or sale of any security or arising out of such person's conduct as an underwriter, broker, dealer, investment adviser, municipal securities dealer, government securities broker, government securities dealer, transfer agent, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act;

"(2) any person who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an underwriter, broker, dealer, investment adviser, municipal securities dealer, government securities broker, government securities dealer, transfer agent, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security; or"

Sec. 510. Section 12 of the Investment Company Act of 1940 (15 U.S.C. 80a-12) is amended—

(1) by striking out "Treasury" in subsection (d)(1)(A)(iii) and inserting in lieu thereof "treasury";

(2) by striking out "it reasonably possible" in subsection (d)(1)(G) and inserting in lieu thereof "is reasonably possible"; and

(3) by striking out "only thereof" in subsection (f) and inserting in lieu thereof "thereof only".

Sec. 511. Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a-15) is amended—

(1) by striking out "(40)" in subsection (d) and inserting in lieu thereof "(42)"; and

(2) by striking out the period at the end of subsection (B) of paragraph (3) of subsection (f) and inserting in lieu thereof a comma.

Sec. 512. Section 17 of the Investment Company Act of 1940 (15 U.S.C. 80a-17) is amended by striking out the second sentence of each of subsections (h) and (i).

Sec. 513. Section 18(e) of the Investment Company Act of 1940 (15 U.S.C. 80a-18(e)) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

Sec. 514. Section 20 of the Investment Company Act of 1940 (15 U.S.C. 80a-20) is amended—

(1) by striking out the second sentence of subsection (b);

(2) by striking out the first sentence of subsection (d); and

(3) by striking out "at any time after the effective date of this title" in subsection (d).

Sec. 515. Section 21(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-21(b)) is amended by striking out "to the extension or renewal of any such loan made prior to March 15, 1940, or".

Sec. 516. Section 22 of the Investment Company Act of 1940 (15 U.S.C. 80a-22) is amended—

(1) by striking out "subsection (b)(8)" in paragraph (1) of subsection (b) and inserting in lieu thereof "subsection (b)(6)";

(2) by striking out paragraph (2) of subsection (b) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(3) by striking out "section 15A(k)(2)" in subsection (b)(2) (as so redesignated) and inserting in lieu thereof "section 19(c)";

(4) by inserting in the first sentence of subsection (e) a comma after the word "redemption" where it first appears and where it appears for the third time; and

(5) by striking out the last sentence of subsection (e).

Sec. 517. Section 24(d) of the Investment Company Act of 1940 (15 U.S.C. 80a-24(d)) is amended by inserting a period immediately after "issuer" in the second sentence thereof and by striking out all that follows in such sentence.

Sec. 518. Section 26(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-26(b)) is amended by striking out "intend" and inserting in lieu thereof "intended".

Sec. 519. Section 26(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-26(c)) is amended by striking out "contract of agreement" and inserting in lieu thereof "contract or agreement".

Sec. 520. Section 28(a)(2)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a-28(a)(2)(B)) is amended by striking out "subsection" and inserting in lieu thereof "paragraph".

Sec. 521. Section 28(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-28(d)(2)) is amended by inserting "of" immediately before "subsection (a)".

Sec. 522. Section 36 of the Investment Company Act of 1940 (15 U.S.C. 80a-35) is amended—

(1) by striking out "loans" in paragraph (4) of subsection (b) and inserting in lieu thereof "loads";

(2) by redesignating subsection (d) as subsection (c); and

(3) in subsection (c) (as so redesignated), by striking out "through (c)" and inserting in lieu thereof "and (b)".

Sec. 523. Section 42 of the Investment Company Act of 1940 (15 U.S.C. 80a-41) is amended by redesignating subsection (e) as subsection (d).

Sec. 524. Section 53 of the Investment Company Act of 1940 (15 U.S.C. 80a-52) is amended by inserting a period in the first sentence thereof immediately after "1941" and by striking out everything that follows in such sentence.

Sec. 525. Section 54(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-53(a)) is amended by striking out "defined in sections" and inserting in lieu thereof "defined in section".

Sec. 526. Section 55(a)(1)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a-54(a)(1)(B)) is amended by striking out "described in sections" and inserting in lieu thereof "described in section".

Sec. 527. Section 57(l) of the Investment Company Act of 1940 (15 U.S.C. 80a-56(l)) is amended by striking out "sections 17 (a) and (d)" each place it appears and inserting in lieu thereof "subsections (a) and (d) of section 17".

#### TITLE VI—AMENDMENTS OF INVESTMENT ADVISERS ACT OF 1940

Sec. 601. Section 202(a)(19) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(19)) is amended by striking out "the Canal Zone,".

Sec. 602. Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended—

(1) by inserting "transfer agent," after "fiduciary," in subsection (e)(2)(B);

(2) by inserting "transfer agent," after "government securities dealer," in subsection (e)(3);

(3) by striking out "or seeking to become associated" in the first sentence of subsection (f) and inserting in lieu thereof "seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated"; and

(4) by striking out "subsection (d)" in subsection (g) and inserting in lieu thereof "subsection (c) or subsection (e)".

Sec. 603. Section 205 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-5) is amended to read as follows:

#### "INVESTMENT ADVISORY CONTRACTS

"Sec. 205. (a) No investment adviser, unless exempt from registration pursuant to section 203(b), shall make use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, to enter into, extend, or renew any investment advisory contract, or in any way to perform any investment advisory contract entered into, extended, or renewed on or after the effective date of this title, if such contract—

"(1) provides for compensation to the investment adviser on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;

"(2) fails to provide, in substance, that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract; or



"(3) fails to provide, in substance, that the investment adviser, if a partnership, will notify the other party to the contract of any change in the membership of such partnership within a reasonable time after such change.

"(b) Paragraph (1) of subsection (a) shall not—

"(1) be construed to prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates, or taken as of a definite date;

"(2) apply to an investment advisory contract with—

"(A) an investment company registered under title I of this Act, or

"(B) any other person (except a trust, governmental plan, collective trust fund, or separate account referred to in section 3(c)(11) of title I of this Act), provided that the contract relates to the investment of assets in excess of \$1 million,

if the contract provides for compensation based on the asset value of the company or fund under management averaged over a specified period and increasing and decreasing proportionately with the investment performance of the company or fund over a specified period in relation to the investment record of an appropriate index of securities prices or such other measure of investment performance as the Commission by rule, regulation, or order may specify; or

"(3) apply with respect to any investment advisory contract between an investment adviser and a business development company, as defined in this title, if (A) the compensation provided for in such contract does not exceed 20 per centum of the realized capital gains upon the funds of the business development company over a specified period or as of definite dates, computed net of all realized capital losses and unrealized capital depreciation, and the condition of section 61(a)(3)(B)(iii) of title I of this Act is satisfied, and (B) the business development company does not have outstanding any option, warrant, or right issued pursuant to section 61(a)(3)(B) of title I of this Act and does not have a profit-sharing plan described in section 57(n) of title I of this Act.

"(c) For purposes of paragraph (2) of subsection (b), the point from which increases and decreases in compensation are measured shall be the fee which is paid or earned when the investment performance of such company or fund is equivalent to that of the index or other measure of performance, and an index of securities prices shall be deemed appropriate unless the Commission by order shall determine otherwise.

"(d) As used in paragraphs (2) and (3) of subsection (a), 'investment advisory contract' means any contract or agreement whereby a person agrees to act as investment adviser to or to manage any investment or trading account of another person other than an investment company registered under title I of this Act."

SEC. 604. Section 209 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9) is amended by redesignating subsection (e) as subsection (d).

SEC. 605. Section 211(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-11(b)) is amended by striking out "the Federal Register Act" and inserting in lieu thereof "chapter 15 of title 44, United States Code."

SEC. 606. Section 213(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-13(a)) is amended by striking out "sections 239 and 240 of the Judicial Code, as amended" and

inserting in lieu thereof "section 1254 of title 28, United States Code".

SEC. 607. Section 214 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-14) is amended by striking out "sections 128 and 240 of the Judicial Code, as amended, and section 7, as amended, of the Act entitled, 'An Act to establish a court of appeals for the District of Columbia', approved February 9, 1893", and inserting in lieu thereof "sections 1254, 1291, 1292, and 1294 of title 28, United States Code".

#### TITLE VII—AUTHORIZATION

SEC. 701. Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended—

(1) in the first sentence, by striking out "and" immediately after "1982";

(2) by inserting immediately before the period at the end of the first sentence the following: ", \$158,600,000 for the fiscal year ending September 30, 1988, and \$172,200,000 for the fiscal year ending September 30, 1989"; and

(3) in the last sentence, by striking out "fiscal year 1983" and inserting in lieu thereof "fiscal year 1989".

#### MOTION OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MARKEY, moves to strike out all after the enacting clause of S. 1452 and to insert in lieu thereof the provisions of the bill H.R. 2600, as passed by the House, with the following additional amendment:

At the end of the House amendment add the following new section:

#### SEC. 4. TECHNICAL AMENDMENTS RELATING TO THE GOVERNMENT SECURITIES ACT OF 1986.

(a) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—(1) Section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(a)(1)(B)(i)) is amended by striking out "When" and inserting "When such".

(2) Section 17(f)(1)(A) of such Act (15 U.S.C. 78q(f)(1)(A)) is amended by striking out "government securities," and inserting "securities issued pursuant to chapter 31 of title 31, United States Code."

(b) AMENDMENT TO THE SECURITIES INVESTOR PROTECTION ACT OF 1970.—Section 16(12) of the Securities Investor Protection Act of 1970 (15 U.S.C. 7811(12)) is amended by inserting before the period at the end thereof the following: "other than a government securities broker or government securities dealer registered under section 15C(a)(1)(A) of the 1934 Act".

Mr. MARKEY [during the reading]. Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. RINALDO. Reserving the right to object, Mr. Speaker, and I will not object, I ask that the gentleman from Massachusetts explain the underlying reasons behind the amendment and what the gentleman intends, why he requests that these amendments be enacted into law?

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding.

These are three technical amendments that are fully supported by the SEC. The amendments clarify: First, which Government securities brokers or Government securities dealers must file a notice with the Commission when they cease to do business; second, that if securities are lost or stolen they are only reported to the Secretary of the Treasury if they are Treasury Securities; and third, that Government securities brokers and government securities dealers who join a national securities exchange rather than the National Association of Securities Dealers do not thereby become members of SIPC, the Securities Investor Protection Corp.

These amendments therefore serve only to clarify technical aspects of the Securities Exchange Act of 1934 and the Securities Investor Protection Act of 1970.

Mr. RINALDO. Mr. Speaker, I want to thank the gentleman for the explanation. It is then my understanding that all he is doing is making three technical corrections which are in conformity with what the SEC wants and the changes are required to bring these laws into conformity with the Government Securities Act which we enacted last year.

Mr. Speaker, in my view these amendments are consistent with the purposes of that legislation, and, therefore, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The text of H.R. 2600, as amended, is as follows:

Strike out all after the enacting clause, and insert:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities and Exchange Commission Authorization Act of 1987".

#### SEC. 2. AUTHORIZATION OF AND LIMITATIONS ON APPROPRIATIONS.

Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:

#### "AUTHORIZATION OF APPROPRIATIONS

"SEC. 35. (a) There are hereby authorized to be appropriated to carry out the functions, powers, and duties of the Commission (other than the functions, powers, and duties described in subsection (b))—

"(1) \$133,900,000 for fiscal year 1988; and

"(2) \$154,000,000 for fiscal year 1989.

"(b) In addition to the amounts authorized by subsection (a), there are authorized to be appropriated to the Commission for the purpose of funding a contract for the establishment and operation of the electronic data gathering, analysis, and retrieval ('EDGAR') system—

"(1) \$20,000,000 for fiscal year 1988; and

"(2) subject to section 35A(a)(2) of this title, \$15,000,000 for fiscal year 1989."

## SEC. 3. REQUIREMENTS FOR THE EDGAR SYSTEM.

The Securities Exchange Act of 1934 is amended by inserting after section 35 the following new section:

## "REQUIREMENTS FOR THE EDGAR SYSTEM

"SEC. 35A. (a)(1) Of the funds appropriated to the Commission pursuant to section 35 of this title for fiscal year 1988 which are available for establishment or operation of the electronic data gathering, analysis, and retrieval ('EDGAR') system, the Commission shall reserve \$15,000,000. None of the funds that are so reserved may be obligated or expended unless the Commission has made the certification required by subsection (c) of this section.

"(2) Notwithstanding section 35(b) of this title, no funds are authorized to be appropriated for fiscal year 1989, and no such funds may be obligated or expended, for the establishment or operation of the EDGAR system unless the Commission has—

"(A) filed each report required during fiscal year 1988 by subsection (b) of this section; and

"(B) made the certification required by subsection (c) of this section.

"(3) Amounts appropriated to the Commission for the EDGAR contract shall be the exclusive source of funds for the procurement and operation of the systems created under that contract by or on behalf of the Securities and Exchange Commission—

"(A) for the receipt of filings under Federal securities laws; and

"(B) for the automated acceptance and review of the filings and information derived from such filings.

"(b) The Commission shall submit a report to the Committees on Banking, Housing, and Urban Affairs and Governmental Affairs of the Senate and the Committees on Energy and Commerce and Government Operations of the House of Representatives on the status of EDGAR development, implementation, and progress at six-month intervals beginning December 31, 1987, and ending at the close of 1990 (unless otherwise extended by the Congress). Such report shall include the following:

"(1) The overall progress and status of the project, including achievement of significant milestones and current project schedule.

"(2) The results of Commission efforts to test new or revised technical solutions for key EDGAR functions. In particular, the following functions shall be addressed and the indicated information provided:

"(A) Automating receipt and acceptance processing, including—

"(i) development and testing progress and results;

"(ii) actual versus estimated development cost; and

"(iii) actual effect of this function on Commission staff needs to assist filers.

"(B) Data tagging (identifying financial data for analysis by EDGAR), including—

"(i) description of the approach selected, identifying the types of financial data to be tagged and the calculations to be performed;

"(ii) comments by the filer population on the approach selected;

"(iii) the results of testing this approach, including information on the number of filers taking part in the test and their representativeness of the overall filer population;

"(iv) actual versus estimated development cost; and

"(v) effect of implementing this function on EDGAR benefits.

"(C) Searching text for keywords, including—

"(i) the technical approach adopted for this function;

"(ii) development and testing progress and results;

"(iii) data storage requirements and search response times as compared to EDGAR pilot system experience;

"(iv) actual versus estimated development cost; and

"(v) effect of implementing this function on EDGAR benefits.

"(3) An update of cost information for the receipt, acceptance and review, and dissemination portions of the system including a comparison of actual costs with original estimated costs and revised estimates of total system cost and total funding needs for the contract.

"(4) The status of Commission efforts to obtain and maintain staff with the proper contractual, managerial, and technical expertise to oversee the EDGAR project.

"(5) The fees, revenues, costs, and profits obtained or incurred by the contractor as a result of the required dissemination of information from the system to the public under the EDGAR contract, except that the information required under this paragraph (A) need be obtained from the contractor no more frequently than once each year, and (B) may be submitted to the Congress as a separate confidential document.

"(6) Such other information or recommendations as the Commission considers appropriate.

"(c) On or before the date the Commission enters into the contract for the EDGAR system, the Commission shall submit to the Committees on Banking, Housing, and Urban Affairs and Governmental Affairs of the Senate and the Committees on Energy and Commerce and Government Operations of the House of Representatives a certification by the Commission—

"(1) of the total contract costs to the Federal Government of the EDGAR system for each of the 3 succeeding fiscal years;

"(2) that the Commission has analyzed the quantitative and qualitative benefits to be obtained by the establishment and operation of the system and has determined that such benefits justify the costs certified pursuant to paragraph (1);

"(3) that (A) the contract requires the contractor to establish a schedule for the implementation of the system; (B) the Commission has reviewed and approved that schedule; and (C) the contract contains adequate assurances of contractor compliance with that schedule;

"(4) of the capabilities which the system is intended to provide and of the competence of the contractor and of Commission personnel to implement those capabilities; and

"(5) that mandatory filings from a significant test group of registrants will be received and reviewed by the Commission for a period of at least six months before the adoption of any rule requiring mandatory filing by all registrants.

"(d) The Commission, by rule or regulation—

"(1) shall provide that any information in the EDGAR system that is required to be disseminated by the contractor—

"(A) may be sold or disseminated by the contractor only pursuant to a uniform schedule of fees prescribed by the Commission;

"(B) may be obtained by a purchaser by direct interconnection with the EDGAR system;

"(C) shall be equally available on equal terms to all persons; and

"(D) may be used, resold, or redisseminated by any person who has lawfully obtained such information without restriction and without payment of additional fees or royalties; and

"(2) shall require that persons, or classes of persons, required to make filings with the Commission submit such filings in a form and manner suitable for entry into the EDGAR system and shall specify the date that such requirement is effective with respect to that person or class; except that the Commission may exempt persons or classes of persons, or filings or classes of filings, from such rules or regulations in order to prevent hardships or to avoid imposing unreasonable burdens or as otherwise may be necessary or appropriate; and

"(3) shall require all persons who make any filing with the Commission, in addition to complying with such other rules concerning the form and manner of filing as the Commission may prescribe, to submit such filings in written or printed form—

"(A) for a period of at least one year after the effective date specified for such person or class under paragraph (2); or

"(B) for a shorter period if the Commission determines that the EDGAR system (i) is reliable, (ii) provides a suitable alternative to such written and printed filings, and (iii) assures that the provision of information through the EDGAR system is as effective and efficient for filers, users, and disseminators as provision of such information in written or printed form.

"(e) For the purposes of carrying out its responsibilities under subsection (d)(3) of this section, the Commission shall consult with representatives of persons filing, disseminating, and using information contained in filings with the Commission."

## SEC. 4. TECHNICAL AMENDMENTS RELATING TO THE GOVERNMENT SECURITIES ACT OF 1934.

(a) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—(1) Section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(a)(1)(B)(i)) is amended by striking out "When" and inserting "When such".

(2) Section 17(f)(1)(A) of such Act (15 U.S.C. 78q(f)(1)(A)) is amended by striking out "government securities," and inserting "securities issued pursuant to chapter 31 of title 31, United States Code."

(b) AMENDMENT TO THE SECURITIES INVESTOR PROTECTION ACT OF 1970.—Section 16(12) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78ll(12)) is amended by inserting before the period at the end thereof the following: "other than a government securities broker or government securities dealer registered under section 15C(a)(1)(A) of the 1934 Act".

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to extend and amend the authorization of appropriation for the Securities and Exchange Commission, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2600) was laid on the table.



### MR. HONECKER, TEAR DOWN THE BERLIN WALL

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WOLF. Mr. Speaker, I am introducing legislation today urging German Democratic Republic chief of state Erich Honecker to permanently repeal the order to East German border guards to "shoot to kill" anyone attempting to cross the Berlin Wall without authorization and to tear down the Berlin Wall.

As an executive committee member of the congressional human rights caucus, I am committed to working for freedom for people throughout the world. The Berlin Wall, erected in 1961, imprisons more than 17 million Germans behind an artificial barrier limiting access to the free world. It stands as a stark reminder that the East German Government routinely denies the human rights of its citizens.

Because of orders to East German border patrols to "shoot to kill," many East Germans have lost their lives attempting to reach freedom by scaling the wall. This barbaric policy cost three East Germans their lives in the past year alone.

These policies denying basic human rights are unacceptable to the American people. This legislation puts the U.S. Congress firmly on record in opposition to these policies by urging constructive action by the East German Government.

Mr. Speaker, the recent meetings between West German Chancellor Helmut Kohl and East German leader Erich Honecker have highlighted the importance of tearing down the Berlin Wall and repealing the "shoot to kill" order. I encourage my colleagues to join me in sponsoring this resolution.

H. CON. RES. 186

Concurrent resolution urging the German Democratic Republic chief of state Erich Honecker to permanently repeal the order directing East German border guards to shoot to kill anyone who, without authorization, attempts to cross the Berlin Wall and to issue an order to tear down the Berlin Wall

Whereas the United States is committed to promoting freedom for people throughout the world and recognizes that respect for basic human rights is the cornerstone of freedom;

Whereas the Berlin Wall was erected in 1961, more than a quarter-century ago, and has since imprisoned more than 17,000,000 East Germans behind an artificial barrier that limits access to the free world;

Whereas the Berlin Wall continues to serve as a cruel barrier between people and remains a stark reminder that basic human rights are denied to East German citizens by the East German government;

Whereas the East German government has issued orders to border guards to shoot to kill anyone who, without authorization, attempts to cross the Berlin Wall;

Whereas East German guards have killed many East Germans in border incidents;

Whereas, in the year ending August 13, 1987, there were 63 attempted escapes from East Germany, 16 during which shots were fired, and 3 persons were possibly killed while attempting to escape;

Whereas these policies, which deny basic human rights and limit personal freedoms, are unacceptable to the people of the United States; Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That Congress urges the German Democratic Republic chief of state Erich Honecker to permanently repeal the order directing East German border guards to shoot to kill anyone who, without authorization, attempts to cross the Berlin Wall and to issue an order to tear down the Berlin Wall.*

### TRIBUTE TO THE LATE AUSTIN G. SMITH, PROFESSIONAL STAFF MEMBER, HOUSE AP- PROPRIATIONS COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. CHAPPELL] is recognized for 5 minutes.

Mr. CHAPPELL. Mr. Speaker, it is with a sense of deep sorrow that I announce the passing of a valued staff member of the Defense Appropriations Subcommittee, Mr. Austin G. Smith, on July 31, 1987.

Austin was born on January 2, 1929, and was a native of Tennessee. He served with the U.S. Army in Japan during the Korean war and moved to the Washington, DC, area in the mid-1950's.

He joined the Committee on Appropriations in 1962 and served the committee with distinction for some 22 years until his retirement on March 31, 1984.

On the Subcommittee on Defense, Austin specialized in military personnel matters and more particularly in military medical programs. He worked hard for the committee and served the Defense Subcommittee ably and professionally for many years. Austin will be sorely missed.

Our prayers are with Austin, his wife Jean, and their children in this time of deep sadness.

### TRIBUTE TO ESSEX, MD, ON SEPTEMBER 13, ITS SPECIAL DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, on Sunday next, September 13, Essex, one of the most prominent communities in my district will again observe its special day, "Essex Day."

I would like to recount some of the history from the paper prepared by Paul Michael Blitz, archivist of the Heritage Society of Essex and Middle River:

Essex, Maryland has a long and proud history. The first settlers of the area; like the rest of America were the Indians. Over 700 Susquehannoughs inhabited the area. The fierce and warlike Susquehannoughs often

waged war with the Massawomekes or the Iroquois. Captain John Smith, Founder of the colony of Jamestown in Virginia, sailed up the Chesapeake Bay in 1608. He was exploring Back River and Middle River or as he called them "Smals Poynt" and "Willow-byes" when he first encountered the Susquehannoughs. He was very impressed when they prostrated themselves in adoration of the European settlers. Like the Roman Empire, the Susquehannoughs were defeated. No, not by a neighboring tribe; but by Smallpox. We have evidence that the Indians lived in this area because arrowheads were found at Cox's Point and Deep Creek which are on display at the Heritage Society Museum.

In 1634, the colony of Maryland was founded. By 1658, settlers started moving into the Back River Neck Peninsula. One of the early families who settled here were the Stansburys. The Stansbury Family was a prominent family who also lived in the Patapsco Neck area. Reverend Tobias Stansbury had a farm located in the Patapsco Neck. It was on this farm where General Robert Ross was killed during the Battle of North Point in the War of 1812. Another member of the Stansbury Family; Elijah Stansbury would later become Mayor of Baltimore.

In 1659, Cecil Calvert, Second Lord Baltimore, granted 420 acres of land along the Chesapeake Bay to a prominent Virginia planter named William Ball. Later, William Ball would become the Great-Great-Grandfather of another prominent Virginia planter named George Washington. Today, the tract of land William Ball received is now Rocky Point Golf Course. The manor house named for Ball is "Ballestone" and is open to the public.

By the 1700's, most of what is now Essex was made up of land grants. In 1736, Thomas Hines received 261 acres of land called "Hines Purchase". This land grant would later become "Essex". The original "Hines Purchase" marker is still standing on the corner of Mace Avenue and Franklin Avenue.

Industry came to the area in 1744 when the Principio Co. opened an iron furnace at the head of Back River. Augustine Washington, and his sons Lawrence and George Washington had stock in the company. A mansion was built for the Washington Family to stay when they visited the iron furnace. Later, the name was changed to the "Locust Grove" ore mine. It was in operation from 1845-1885. During the Civil War, it made weapons and employed 100 people. The Locust Grove Iron Furnace built Zion Evangelical Lutheran Church for its workers to have a place to worship.

In the 1800's, Elijah Taylor bought farmland which he called "Paradise Farm". This was the first time the area was united under one name—Paradise. Around 1860, James C. Tutchton and his wife Sarah rented Paradise Farm from Jacob Taylor. Later, the Taylor Family decided to have "Paradise" resurveyed. In 1909, the Taylor Land Co. divided the farm into lots and created the town of Essex, Maryland; named after a county in England. The Taylor Land Co. also donated lots for St. John's Lutheran Church, Essex Methodist Church, the volunteer fire company and the portable schools. Essex was a growing community and was called "The Rising Suburb of the East". Josenhans Corner and Bauernschmidt Manor (which was recently saved by a campaign headed by Jack Cogle of the Essex-Middle River Chamber of Commerce

and Paul M. Blitz Historian of the Heritage Society of Essex and Middle River is being restored to its original condition) were two of the early landmarks in Essex. The first house in Essex was the Schuster House located on the corner of Dorsey Avenue and Taylor Avenue. Some of the streets in Essex were named for the Taylor family. These include Taylor Avenue, Franklin Avenue, and Margaret Avenue.

In 1910, the oldest store in Essex was opened by Henry Guttentuber. His son, John (now in his eighties) still runs the store.

In 1915, the Vigilant Volunteer Fire Company was formed. Located at 518 Eastern Boulevard, it was the first firehouse in Essex. Up to that time, Essex had no fire protection. Upset by this, a group of concerned citizens formed the volunteer fire company. Because of the growth and development of Essex, bucket brigades were useless. After realizing this, the Vigilant Fire Company turned to horse drawn wagons. They, too, became obsolete. With the advent of the automobile, motorized fire pumps replaced horse drawn wagons. The Vigilant Fire Company purchased a 1914 Bessmer Motorized Chassis. It had the modern features of two pumps, fire hoses and a 40 foot ladder. A 35 gallon chemical tank was mounted behind the driver's seat.

By 1919 there were two paid fire houses in Baltimore County. One in Towson town, the County Seat, and the other one was in Catonsville. In that same year, Essex had paid firemen stationed at the Vigilant Fire Company. The volunteer firemen soon became paid firemen and established a building and loan association which exists today. In 1920, a new firehouse was built next door to the Vigilant Building and Loan. This fire station is now the Heritage Society Museum.

Many people came to Essex to visit Hollywood Park. In addition to being an amusement park, Hollywood Park also offered picnic areas, swimming, fishing, and beer garden.

In 1929, Essex became well known when an Ohio businessman named Glenn L. Martin built an airplane plant in Middle River, Maryland. During World War II, 50,000 people worked at Martin's. The influx of people to the area came to get jobs at Martin's. This boost of population led the Glenn L. Martin Company to build company homes for its workers. Aero Acres and Victory Villa in Middle River, Maryland are two such communities.

After World War II, Essex experienced tremendous economic and social growth. As more and more people moved into the area, more businesses opened to meet their needs.

On August 3, 1957, tragedy struck Essex. A 10 alarm blaze gutted the entire 400 and 500 block of Eastern Boulevard. The fire caused more than 1 Million dollars worth of damage and took six hours before it was brought under control. Fire Officials said that the fire started in the Car-Mor Company warehouse in the basement of Arnold Department Store. No lives were lost in the fire.

The area was devastated by the fire. With the advent of shopping centers, businesses started moving out of the Essex business district to take advantage of shopping centers' store space and parking space. Essex experienced severe economic depression. This economic plight would continue into the 1960's and 1970's.

In 1968, the Heritage Society of Essex and Middle River was founded to protect and preserve the history of Essex and Middle

River, Maryland. It is a non-profit organization staffed by volunteers. The old firehouse became a police station and later a courthouse. When the new fire station, police station, and courthouse were built, Baltimore County wanted to tear down the vacant building. Alex Bomgartner, The founder of the Heritage Society of Essex and Middle River and its members felt that the old building would be the ideal place to have a museum to display the artifacts that they collected. The Heritage Society of Essex and Middle River petitioned the County to save the building and use it as a museum. In 1975 after a three-year fight, Baltimore County agreed to save the building which is now The Heritage Society Museum. The Heritage Society of Essex and Middle River also engaged in a grassroots effort to save Ballestone Manor which the County also wanted to tear down to make way for Rocky Point Golf Course. The manor house was saved and restored and opened to the public in 1977.

In 1972, Essex like most of Maryland, was hit by "Hurricane Agnes". Rising waters caused flooding in some areas and heavy winds knocked down trees, limbs, and power lines.

During the 1970's, a move was made for the "Revitalization" of Essex and the business district. It was an effort on the part of the Essex Development Corporation, Essex-Middle River Chamber of Commerce, elected officials, and the community to bring businesses and government offices to occupy the vacant buildings along Eastern Boulevard. The effort proved to be a great success.

By the 1980's, Essex was rejuvenated. Businesses relocated into the area. The Multi-Government Building and Eastside Occupational Building provide easy access to governmental agencies such as the Department of Motor Vehicles and Licenses and Permits.

In 1984, Essex celebrated its 75th Anniversary. To mark the occasion, Essex received a Presidential Citation from President Reagan. The following year, the Joint-Veterans Association erected a monument to honor those who died for their country in Korea and Vietnam. In 1988, The Heritage Society of Essex and Middle River will celebrate its 20th Anniversary. The future of Essex looks very optimistic and on Sunday Sept. 13, this community again will observe Essex Day.

Essex has survived fire, floods, hurricane, and economic depression. But Essex always rises up and becomes alive again. And with the help of the Essex Development Corporation; Essex-Middle River Chamber of Commerce; elected officials; and members of the community, Essex will again become "The Rising Suburb of the East". I salute this marvelous community.

#### AIRLINE SCHEDULES UNDER DEREGULATION IN A MESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. GRAY] is recognized for 5 minutes.

Mr. GRAY of Illinois. Mr. Speaker, during the August recess I had occasion to represent the House Committee on Veterans' Affairs in traveling to California to hold hearings, at the Veterans' Administration hospital in San Francisco on the subject of AIDS. During the time I first called the air-

port, Lambert Field in St. Louis, MO, consternation, false promises and delays were inherent in that entire trip all the way to California and back.

Before coming to the Congress, Mr. Speaker, I was a fixed-base operator. I think I know a little bit about flying. In fact, for 15 years while serving in this body I flew my own helicopter. I want to say without fear of contradiction that the airline schedules since deregulation is in a terrible mess. I think we must face reality that we are going to have to go back to regulation if we are to have safety in the skies and certainly if we are going to have any convenience for the American and foreign travelers.

On that trip that I mentioned a moment ago, Mr. Speaker, the flight was about an hour and a half late. When I arrived in California, it took at least 45 minutes to get my bags.

On the trip back—first let me say that the Committee on Veterans' Affairs had secured the ticket round trip. When I started back, the airline refused to accept the return trip without upgrading it for another \$285. In fact, I am an auctioneer and when you call up on the phone to get a reservation, they start out with the very highest price and then the airline will say, "Well, if you can't afford that, then we will give you another price." You may get as many as seven or eight different price structures, all kinds of gimmicks that they will offer the traveling public to try to outdo the competition, completely disregarding their customers, the flying public.

So I think the time has come when we in the Congress must take action, not only to put on more air traffic controllers so the skies will be safer, but also to make absolutely certain that when an airline says they are going to depart at a certain time, they make every reasonable effort to leave at that particular time.

Concerning safety, I sat on the Public Works Committee 13 years ago and asked the then FAA Administrator what we were doing about collision avoidance devices.

Mr. Speaker, it is very strange, because the Administrator back then, General Kee, said, "We are just around the corner" from developing the collision avoidance systems.

I retired from this body, gone 10 years, came back to the same committee and last year I asked the FAA Administrator, Admiral Engen, "How are you coming on the collision avoidance devices?"

Mr. Speaker, you would think they rehearsed it; 13 years later he said exactly the same thing, "Just around the corner." Just around the corner, 13 years later.

We have the technology now to put in collision avoidance devices on our scheduled flights. We have TKASH-1,



TKASH-2, and now TKASH-3, which is a very sophisticated instrument. I think now Mrs. Dole, the Secretary of Transportation, has finally said, "Well let's get busy and go ahead and demand that the airlines install collision avoidance devices." I thank her for that, but more needs to be done.

Last year alone, Mr. Speaker, we had more than 900 near misses in the air just over the continental limits of the United States, not counting all the near misses in foreign countries where American carriers fly. I am sure there were many others not reported.

So I stand here today warning that we must absolutely do something to put on more air traffic controllers, and improve airline service.

Back when the air traffic controllers' strike occurred in 1981, when President Reagan laid off all the controllers, we had 16,000-plus air traffic controllers. Today, Mr. Speaker, we have 25 percent more airplanes in the air and we have just a little over 14,000 air traffic controllers. So you can see the number of planes in the air has gone up and the number of air traffic controllers down. That does not spell good safety, and certainly I think all Members ought to join with Congressman NORMAN MINETA, chairman of our Subcommittee on Aviation and JIM HOWARD our full committee chairman joined by Congressman HAMMER-SCHMIDT ranking minority member of the full committee, and Congressman GINGRICH, ranking subcommittee member and push our legislation that will provide a bill of rights for the flying public including the possibility of going back to regulation if things don't improve at our airports and in the skies.

Thank you Mr. Speaker, for giving me the opportunity to speak a few words in behalf of the weary traveler.

#### THE IMPORT OF THE NOMINATION OF JUDGE BORK TO THE SUPREME COURT

The SPEAKER pro tempore (Mr. NATCHER). Under a previous order of the House, the gentleman from California [Mr. DYMALLY] is recognized for 60 minutes.

Mr. DYMALLY. Mr. Speaker, there are few times in the history of a nation, that a public servant is allowed the opportunity to impact the course of history. What we do this day is to pursue the preservation of democracy. We join together to engage the attention of the Nation, and that of our colleagues in the U.S. Senate, in scrutinizing the record and import of the nomination of Robert H. Bork to the Supreme Court. We stand in the well of the people's House, representing diverse geographic regions and philosophical perspectives, yet committed to one truth. And that is where there

are those who would trammel the democratic spirit or the individual will, we must rise in unrelenting opposition. Therefore I come before you, as chairman of the Congressional Black Caucus, and on behalf of the millions of people of conscience who we represent, to state that the future of our country is imperiled by the nomination of Robert Bork. And to his defenders we state affirmatively, that any attempt to represent his judicial record as short of ominously regressive is blatantly untrue.

There are those who suggest that our discussion of these matters is inappropriate. To argue that the selection of the judiciary is above politics, is a refusal to appreciate the reality of the society in which men and women of the bench must operate. This is not just another political appointment, but the selection of an individual who could well change the face of American civil liberties for years to come. We, as elected officials, have a responsibility to replace fiction with fact, to combat a partisan-driven public relations ploy which would have us believe that Robert H. Bork is a progressive activist who has been victimized by a partisan democratic left. To the contrary, the real victims are "We the people" and a Constitution which stands in jeopardy of a wave of judicial review of its very intents and purposes.

To be sure, Robert H. Bork is no champion for equality of opportunity or a friend of individual freedoms. We do not have to speculate about the record, there is a documented trail of actions as lawyer, teacher, Government official, and member of the court of appeals.

In recognition of the Bork legacy of opposition to voting rights, civil rights, open and fair housing, and affirmative action, I was joined by each of America's national organizations of black elected officials in announcing our collective and unequivocal opposition to his nomination. By name these organizations are the Congressional Black Caucus, the World Conference of Black Mayors, the National Black Caucus of Local Elected Officials, the Democratic National Committee Black Caucus, the National Black Caucus of State Legislators, the National Conference of Black Mayors, the National Association of Black County Officials, the National Bar Association and the Judicial Council of the National Bar Association, and the National Political Congress of Black Women. These are but a few of the more than 100 civil rights organizations which have joined in a coalition dedicated to the rejection of the Robert H. Bork nomination. Yet, this is not a slick organizational campaign. For every institutional response there has been a commensurate level of attention and awareness among the grassroots electorate.

Indeed, if there was any question of whether this decision would escape this scrutiny of the people, recent weeks have disabused the decision makers of that potentiality. Members of both Houses have been met head-on by an informed and gravely concerned constituency.

Indeed, if there is a true purveyor of justice, it is the ballot box—and our colleagues in the Senate have heard a clear message during these recent weeks of recess. The people do not view this appointment as one in the best interest of America.

Again, to those who would remove this process from political discourse, I call to their attention a recent offering of the New York Times Editorial Board—August 7—which made the following commentary:

Americans hold the Supreme Court in such reverence that they are sometimes persuaded, haplessly, to try taking politics out of politics. As President Reagan's nomination of Judge Robert Bork to the Court reverberates, it becomes clear that this is such a time. The white marble and black robes radiate a virtue which transcends partisanship. That's exactly as it should be: Federal judges receive lifetime appointments in order to be free of any partisan debt or duty. Their unencumbered freedom to decide cases is, however, distinctly different from how the Senate should decide which nominees to approve for the Court. As the history of Reagan nominations illustrates, that is a political question, properly and always. To claim that it is improper to examine a nominee's philosophical positions misses the point. The wholly proper test is to discover and weigh what those positions are.

That argument is clearly on point, and as the paper has suggested:

Just as a President reflects his political values by whom he nominates, the Senate needs to reflect its political values by whom it approves.

Let us, therefore take these moments to share with our colleagues the perspective of the people's House as they stand on the eve of the exercise of their constitutionally mandated responsibility of advice and consent. And let us implore that they reject the nomination of Robert H. Bork.

Mr. CLAY. Mr. Speaker, President Reagan's nomination of U.S. Court of Appeals Judge Robert H. Bork, to fill the seat on the Supreme Court vacated by Justice Lewis Powell, is ominous and unsettling. Judge Bork's views are antithetical to equal justice under the law and I encourage my colleagues in the Senate to reject his nomination.

The question at issue does not pertain to Judge Bork's credentials. He is a brilliant legal scholar. But his ideology, his rigid rightist viewpoint and his published reactionary beliefs about justice mandate that the Senate deny him confirmation. The Senate is required to look beyond the basic legal credentials of a Supreme Court nominee. Many judges are legally qualified to serve, but those who are appointed to the Supreme Court must be especially capable of understanding and adminis-

tering to the diverse interests and needs of our Nation. In my view, Judge Bork's record demonstrates that he is not prepared to serve our Nation's highest interests.

Judge Bork's reactionary record includes opposition to certain provisions of the 1964 Civil Rights Act—particularly in terms of public accommodations, his support of the death penalty, and his opposition to the Roe versus Wade abortion decision. The presence of Judge Bork on the highest court of the land could mean that State legislatures, instead of the courts, will make laws in violation of constitutional provisions, in matters such as affirmative action, freedom of choice for abortion, and search and seizure.

Judge Bork's ideological rigidity is a proper, legitimate question to be posed by the Senate. He is an arch conservative with views which oppose a free and equal society. If his confirmation is sustained by the Senate, it will be divisive and troubling for 240 million Americans; particularly, for blacks, women, and other minorities. The appointment of Judge Bork to the Supreme Court promises to tram-mel our Nation's progress toward equal justice under law.

Mrs. COLLINS. Mr. Speaker, next week, our distinguished colleagues on the Senate Judiciary Committee will begin consideration of the President's nomination of Judge Robert Bork to serve on the Supreme Court.

Over the past several years, the "scales of justice" have been tipped delicately on the Supreme Court with no one judicial viewpoint, liberal or conservative, dominating the other.

Clearly, however, if Judge Bork is confirmed, the scales will be tipped decidedly in favor of a rigid, conservative perspective. This is wrong!

Some people, particularly those in the Reagan administration, argue that ideology should not be a factor in deciding the merits of whether a person should serve on the Court. Instead, they suggest the focus should be on Judge Bork's reputation as a well-respected judicial scholar. The administration also has attempted to cast a new portrait of Judge Bork as a moderate judge.

In my view, these arguments are specious for several reasons. First, it ignores the Senate's "advise and consent" role in the nomination process. It is entirely legitimate for Senators to consider ideology and judicial perspective in evaluating the merits of a nominee. Second, the mere fact that someone is a judicial scholar is not sufficient to qualify them to serve on the Nation's highest court. Finally, it is outright deception to suggest Judge Bork is a moderate.

On the contrary, Judge Bork's writings and public statements reveal a man who is committed to protecting the interests of the Government and business against those of individual citizens.

A justice must have compassion for all people. Judge Bork's writings show no sensitivity toward any disadvantaged group. Twenty-five years ago, Bork opposed civil rights legislation requiring hotel and restaurant owners to serve blacks because it would trample "the freedom of the individual to choose with whom he will deal."

A justice must demonstrate an ability to listen to all points of view. Judge Bork's

record on the appeals courts fails to demonstrate a balancing of competing viewpoints. According to Public Citizen, in seven split decisions involving a public interest group's challenge to a government regulation, Judge Bork favored the executive branch every time.

A justice must see the Constitution as a document which adapts to the changing circumstances of American society. Judge Bork's statements indicate he sees the Constitution as a rigid, static document which has not changed in 200 years. Over 20 years ago, for example, the Supreme Court held there was a constitutionally protected right of privacy. In law review articles and judicial opinions, however, Judge Bork has consistently challenged or tried to restrict this fundamental right.

As a woman and as a black, I am afraid he sees the Constitution of 1987 as the one of 1787. In that world, women had no legal standing. Worse, blacks were counted as only three-fifths of a human being.

If Judge Bork is seated, this myopic viewpoint could drastically shift the delicate balance which currently exists on the Court.

On a 5-to-4 vote this year, the Court upheld a temporary racial quota plan for Alabama State troopers. On a 5-to-4 vote this year, the Court affirmed the first amendment rights of a woman to make a disparaging remark about the President. And on a "soft" 6-to-3 vote, the Court approved an affirmative action program which recognized women had been the victims of past discrimination.

Next year, the Court will decide the validity of a woman's right to an abortion, the employment rights of gays, and a reverse discrimination case. If Judge Bork is confirmed, we already know the outcome of these cases.

It is a travesty of justice for any person to be seated on the Supreme Court who comes to the bench with such defined and preconceived notions of justice. The next member of the Supreme Court must be a person of independence, impartiality, and integrity.

Judge Bork, however, does not meet these standards. Yesterday, a judicial colleague accused Bork of trying to substitute his minority viewpoint for the majority opinion in a case involving a House Republican challenge to the committee assignment process. As this judge said, this raises a serious question of Bork's "basic honesty."

For these reasons, I want to commend my colleagues in the Congressional Black Caucus for arranging this special order and I urge our colleagues in the other body to reject his nomination to the Supreme Court.

Mr. STOKES. Mr. Speaker, I would like to thank my distinguished colleague, Mr. DYMALLY, for reserving this time to address the impending consideration of the nomination of Judge Robert H. Bork to serve as the next Associate Justice of the U.S. Supreme Court.

Mr. Speaker, I wish to firmly add my voice to the ever-growing ground swell of opposition to this nominee, who in my view does not represent the kind of Supreme Court nominee that will best serve the interests of our Nation in the years to come. Unfortunately, the nomination of Judge Bork stands as the next and perhaps crowning legacy of an administration more committed to pursuing a regressive conservative ideology, which threatens to turn

back the clock on America's hard-fought social progress, than it is committed to justice or decency.

It is Judge Bork's own record that stands as the strongest testimony to his absence of qualifications. In developing his judicial philosophy, Judge Bork has adopted the philosophy of "original intent," expounded by Attorney General Edwin Meese. Under this theory, which has been denounced by most legal scholars, Bork argues, like Meese, that "the only way in which the Constitution can constrain judges is if the judges interpret the document's words according to the intentions of those who drafted, proposed, and ratified its provisions and various amendments \* \* \* original intent is the only legitimate basis for constitutional decision." By the application of this questionable theory, Justice Bork seeks to turn back the clock of jurisprudence in such key areas as the death penalty, homosexual rights, the right to privacy, and abortion. In these areas, Bork seeks to ignore the body of legal precedent, in order to return constitutional law to a position consistent with his interpretation of constitutional intent.

In the area of the death penalty, Bork has suggested that "it is a little hard to understand how a penalty that the framers explicitly assumed to be available, can somehow become unavailable because of the very Constitution the framers wrote \* \* \*."

In the area of homosexual rights, Judge Bork has noted, "We would find it impossible to conclude that a right to homosexual conduct is 'fundamental' or 'implicit in the concept of ordered liberty,' unless any and all private sexual behavior falls within those categories, a conclusion we are unwilling to draw."

In the area of abortion, Judge Bork has said, "I am convinced \* \* \* that Roe versus Wade is an unconstitutional decision, a serious and wholly unjustifiable usurpation of State legislative authority."

In Judge Bork's view—and in the view of the administration which seeks to appoint him—the Supreme Court has misbehaved, making law where they should not, and doing social justice instead of law. The administration, in seeking to appoint Judge Bork, hopes to straighten out the Court, bringing the Court around to its view of the role of the Court in the arena of constitutional law.

What Judge Bork—and the administration—fails to recognize is that the law, especially constitutional law, is made incrementally, on a case-by-case basis. While he might disagree with legal precedents, no judge in our system can ignore or avoid precedent. And this, in essence, is the problem with Judge Bork's approach to the Supreme Court. Because he disagrees with what they've done, he seeks to ignore years of legal precedent and turn back the clock of jurisprudence. This, to me, is unacceptable.

The case against Judge Bork is not limited to his flawed theory of constitutional law. As Solicitor General, on October 20, 1973, Judge Bork became the center of another legal controversy, this being the "Saturday Night Massacre" firing of Watergate special prosecutor Archibald Cox. In that instance, Bork accepted President Nixon's order to fire Watergate special prosecutor Archibald Cox, even though



Attorney General Elliot Richardson and his deputy William Ruckelshaus both refused to carry out such a patently improper order, one resigning, and the other being fired for their refusal. I, for one, would be uncomfortable with a Supreme Court Justice who behaved with such disrespect for the legal process in an instance such as this.

Finally, I am seriously troubled by Judge Bork's record on civil rights. During the debate on the great public accommodations provisions of the Civil Rights Act of 1964, Judge Bork took the position that the owners of lunch counters have the right to segregate, ignoring the basic human right of millions of black citizens to be free of discrimination. Judge Bork's opposition to the public accommodations provisions is not an isolated example, but part of a pattern of unyielding resistance to civil rights. He is also on record as opposing progressive Supreme Court decisions which have invalidated poll taxes, upheld the Voting Rights Act of 1965, and provided remedies for school desegregation.

Although I believe in the President's right to nominate a candidate of his choice to fill a vacancy on the Supreme Court, I also believe in the right of the Congress to review the credentials of such an individual, to determine if he or she provides the kind of balance to the Court that serves the best interests of the American people. I do not believe that Robert Bork will provide such a balance, and you may therefore be assured that I will lend my support to opposing his nomination.

For these reasons Mr. Speaker, America is best served with the defeat of this candidate's nomination to the Supreme Court.

Mr. DELLUMS. Mr. Speaker, I rise today to urge my colleagues in the other body to reject the nomination of Robert Bork to the position of Associate Justice of the U.S. Supreme Court.

In my judgment, the Senate must concern itself not only with the personal qualifications of this appointee, but also with the impact of that appointment on the Supreme Court, on the entire judicial branch, and congressional and State legislation.

Based on his previous judicial decisions, public statements, and published books and articles, I am very concerned that Judge Bork's appointment would radically transform present constitutional law, especially in the areas of civil rights and individual liberties.

To cite just a few examples: He denounced a civil rights bill banning racial discrimination in restaurants and hotels, saying that the law interfered with the majority's right to "decide with whom [they] will deal." He opposed the 1964 Civil Rights Act as "an extraordinary incursion into individual freedom." He also argued that a Virginia poll tax, clearly enacted to keep large numbers of poor blacks off the voter rolls, was not discriminatory.

His attitudes toward individual rights is even more reactionary. He publicly referred to civil rights demonstrators as "a mob \* \* \* disturbing and coercing other private individuals in the exercise of their freedom." For him the individual's right of privacy is virtually nonexistent. As I said years ago, concept of the Constitution. In his mind, the Bill of Rights only protects "political" speech; anything else is fair game for Court censorship or condemna-

tion. He has also argued that gays and lesbians do not have the same constitutional rights as homosexuals.

In short, I consider Judge Bork a clear and present danger to the progress made in civil rights and individual freedom in this society during the past 40 years. His unstinting opposition to existing Supreme Court decisions promoting the principle of one man, one vote, open housing, the abolition of racially restrictive covenants, the banning of literacy tests and poll tax requirements for voting, and his repeated denunciations of affirmative action programs all render him constitutionally unacceptable as a candidate for the highest court in the land.

In this year of the bicentennial of our Constitution, the Senate has a special obligation to pass upon the fitness of those who will be sworn "to uphold and defend the Constitution." Based on his past performance and public pronouncements, Judge Bork does not meet those requirements.

Mr. SABO. Mr. Speaker, although I am always reluctant to advise the Senate on how it should perform its duties, there is an issue about which I cannot remain silent. Many actions that Congress takes this fall will be important. But when historians look back, what I fear may stand out most is that Judge Robert H. Bork was confirmed by the Senate, ushering in a new era for the Supreme Court.

Under this scenario, we could see the start of a period in our history in which the Court reverses much of the progress we have made in the past three decades. Should the Senate confirm Judge Bork, I fear the Court may roll back many of the important advances for which we have fought for so long.

But this frightful vision of the future does not have to come to pass. The Senate can exercise its prerogative and reject Judge Bork's nomination.

We have fought and won important battles to protect basic individual rights and liberties, to enhance our democratic processes, and to expand economic opportunities so all American's can share in the American dream. Now is not the time to retreat from these victories. The American people do not want us to turn back the clock and revisit these issues. Instead we must move forward.

While we have been surprised in the past at the change in philosophy that has occurred in some justices once they joined the Court, we cannot gamble that this will happen with Judge Bork. It is clear—from his writings, lectures, and opinions covering 20 years—he has a unique view of the Court's role in our evolving democracy. He has a radical view of the Constitution itself.

Judge Bork disagrees with numerous landmark court decisions. What is most troublesome, however, is his nearly contemptuous disregard for precedents set by past Court decisions and his almost casual willingness to vote to overturn them. It is an almost arrogant lack of respect for the wisdom of past Courts and outcomes that the vast majority of Americans accept as the established law of the land.

The Constitution did not cease to live and grow once it was signed 200 years ago. It continues to grow and improve. Our history has been important and deserves respect.

It is especially ironic that as we celebrate the bicentennial of the U.S. Constitution, President Reagan has nominated a man who wants to tear that remarkable document to shreds. It is sad that he has chosen a man who could embark on a major assault against the Constitution.

I am sure that Judge Bork is a smart man. But intelligence is not the only criterion that should be used to evaluate whether he should serve on the highest court in the land. His philosophy and ideology are extremely important. Just as the President would not nominate a man whose views were opposite of his own, the Senate should not approve a man whose philosophy is so radically different from the mainstream of American thought.

The Court was never intended to be a tool by which the President alone could promote his ideology. It is not a subdivision of the executive branch of Government. Instead, it is a vital independent third branch of our Government. That is why the Senate has the authority to review and pass judgment on a President's recommendation.

The Senate in the case of Judge Bork has a grave responsibility to use its veto power over the President's nomination. I urge the Members of the other body to reject President Reagan's nomination of Judge Bork. In doing so, you will have the support and heartfelt thanks of many of us in this body, the American people, and future generations who want to move forward in the pursuit of justice, liberty, and democracy.

Ms. PELOSI. Mr. Speaker, the Senate is facing one of its most important pieces of business—the process of confirming or rejecting the nomination of Judge Bork to the Supreme Court.

The public debate on this nomination has focused on the powers of the Senate, as well as on the nominee's background and suitability. The Senate does not need to justify or to defend its powers. The framers of the Constitution gave the Senate the powers of advice and consent in the appointments to the judiciary in order to ensure the independence and sanctity of this third branch. Confirming appointments to the Supreme Court requires different consideration than confirming appointments to the executive branch. Cabinet members, serving at the pleasure of the President, are advisers who leave office with the President at the end of term. Supreme Court Justices, however, are supposed to function independently and they are appointed for life. Serious candidates for the Supreme Court, then, should neither be political extremists nor tied to a particular ideology. We look to the Supreme Court for judicial decisionmaking, not for an ideological agenda.

Many legitimate questions have been raised about Judge Bork's judicial philosophy. His record dramatically demonstrates a commitment to the reversal of the advances in individual liberties fought for and won in the Supreme Court over the past three decades.

Our Nation is based on a foundation of the primacy of individual rights. Designed to place basic freedoms beyond majority control, the Constitution guarantees the citizens of the United States those freedoms. The ninth amendment provides that fundamental rights

not specifically listed in the Constitution are still retained by our citizens. The right to privacy has been guaranteed through an entire line of Supreme Court decisions. Both conservative and liberal Justices of the Supreme Court have included the right to privacy in our guaranteed rights. Judge Bork disagrees. He has said that the right to privacy is not covered by the Constitution and that the Supreme Court's previous decisions upholding this right are wrong.

Bork believes that our freedoms should be more narrowly defined. In matters of sex, procreation and family, he would have the Court step aside. If for example, the Constitution does not specifically address birth control, Bork feels that access to them cannot and should not be protected by the Supreme Court. I believe that Judge Bork's philosophy not only violates our constitutionally mandated rights and freedoms, but also presents a highly dangerous threat to the American way of life. Sexual, reproductive, and familial choices should be a matter of individual choice.

Great strides on civil rights have been made in this country over the past three decades. While the road to equality for all, regardless of race, ethnicity, sex or sexual preference, still has some distance to go, we can feel pride in the progress made so far. Judge Bork, however, has played no role in pursuing civil rights and equality. He opposed what became the 1964 Civil Rights Act, which guaranteed that public accommodations be open to all races. He is on record as opposing most of the landmark decisions protecting civil rights and individual liberties rendered by the Supreme Court for 40 years. In fact, his theory of legal interpretation—judicial restraint—would not even have permitted the landmark civil rights cases to be heard.

Judge Bork's clear alignment with right wing ideologues makes him a political extremist and a danger to the independence of the Supreme Court. As our colleagues in the Senate undertake the confirmation process, I urge them to proceed carefully and thoughtfully.

The Senate has the powers and the obligation to reach a decision on the nomination of Judge Bork. Approximately 25 percent of those individuals nominated for the Supreme Court have not been confirmed by the Senate. The public interest will only be served if the Senate makes full and vigorous use of its powers. I strongly urge my colleagues in the Senate to exercise their constitutionally mandated powers and reject Judge Bork's nomination.

#### GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

#### PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE 5 ADDITIONAL DAYS TO PRINT REPORT ON H.R. 2881, NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME ACT

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be given 5 additional legislative days in which to print its report on the bill, H.R. 2881, in the RECORD, including minority, dissenting, and supplemental views.

This request is being made on behalf of the minority to allow time for minority views to be prepared.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

#### LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this 1 minute for the purpose of inquiring of the distinguished majority leader the program for the balance of today, this week, and prospects for next week.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Washington.

Mr. FOLEY. First of all let me express my appreciation to the gentleman from Illinois [Mr. GRAY] for his useful and informative remarks in the well of the House.

I would advise the distinguished Republican leader that we have completed the business for today and for this week. The House will not be in session tomorrow and it will be my intention to ask unanimous consent when the House adjourns today to adjourn to meet at noon on Monday next.

On Monday we intend a pro forma session.

On Tuesday, September 15, the House will meet at noon and consider two bills under the suspension rule, House Resolution 192, concerning the denial of freedom of religion and other human rights in Soviet-occupied Lithuania; and House Resolution 243, expressing the sense of the House on the occasion of the 25th anniversary of the independence of Jamaica.

On Wednesday and the balance of the week, September 16, 17, and 18, the House will meet at 10 a.m. and consider H.R. 1154, the Textile and Apparel Trade Act of 1987, with a closed rule, with 3 hours of debate; H.R. 3030, Agriculture Credit Act of 1987, subject to a rule; and H.R. 442, Civil Liberties Act, subject to a rule.

Conference reports may be brought up at any time and any further program will be announced later.

Mr. Speaker, I might say that on Tuesday, September 15, we intend to postpone recorded votes until after the debate on all suspensions, but at the present time with only two suspensions being scheduled Members should be advised that there will probably be early votes ordered on Tuesday, and we are assuming that there will be votes on Tuesday.

We do not intend to schedule a Friday session next week but if I may respond to the Republican leader's inquiry, the following week, which would be the week of September 21, we intend to have a schedule which will be announced next week for Monday, Tuesday, and Wednesday; that is, votes will be held on Monday, Tuesday, and Wednesday.

Of course, when the House adjourns on Wednesday, we will adjourn for the Jewish high holidays, so we will not be meeting on Thursday or Friday, September 24 and 25.

Mr. MICHEL. The gentleman may or may not be aware that today the gentleman from Mississippi [Mr. LOTT] and I addressed a letter to the Speaker pointing up the closing of dates upon us here with the fiscal year ending September 30, and while we passed nine appropriation bills and the other body has not passed any yet, I do not see any of the remaining appropriation bills scheduled, for example, for next week or that following week.

I am just wondering, coming into the deadline, the debt ceiling needing to be extended, are we headed for another temporary extension?

Mr. FOLEY. Mr. Speaker, it is my hope, personally, that the conference committee on the extension of the debt ceiling will be able to reach agreement on the issues that are presently before it, and I cannot predict that, no one can, as to the precise time but, personally, I think with goodwill and strong effort that the conference committee should be ready to report well before September 23, which is the current deadline for the extension of the debt ceiling. As far as the appropriation bills are concerned, while I cannot announce the schedule for the week after next today, I anticipate the possibility of an appropriation bill being scheduled for the week after next. It is probably unlikely that before the first of October the Senate would be able to take up and act on all appropriation bills passed by the House and conclude a conference with the House.

None of them has been adopted by the Senate at this time even though, as the gentleman pointed out, we have passed nine and reported from the committee at least two others.

So we are well on our way to completing the work of appropriations which is our responsibility in the initial instance, but the Senate, for reasons that I will not digress on, has



been unable to take up the appropriation bills and act on them.

The probability is that we would need to meet the October 1 deadline with some omnibus appropriation or continuing resolution in order to permit the continued function of the Government. That is not our desire, it is not our wish, it was not our hope, but while we have undertaken assiduously to meet our responsibilities on this side of the Capitol, unfortunately we have not been able to bring together conference committees because the other body has not acted on any of the other appropriation bills.

Mr. MICHEL. Does the gentleman have any intelligence on when they would begin over there on the other side to even report appropriation bills let alone consider them on the floor of the Senate?

Mr. FOLEY. I think there will be an effort to do that but, as the gentleman knows and even under our expanded rules, we probably should not digress too much about the problems of the other body, but there have been problems in bringing bills to the floor. The schedule has been complicated there and I cannot predict exactly what will happen.

I do think there will be obviously an effort to proceed on the appropriation bills, but we are faced with the end of the fiscal year on midnight, September 30, despite our efforts and our success in meeting our responsibilities in this regard. It is difficult to presume the Senate would be able to conclude all of the appropriation bills and be able to conclude all of the conferences and conference bills and send them to the President in what is now 20 days before the end of the fiscal year. It stretches a bit even a confident prediction.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I would be happy to yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

I just want to find out, if I could, if we could get a little more elaboration on the schedule for next week.

As the gentleman well knows, we will have the celebration of the Constitution here in this town on Wednesday, and I think the schedule has been done to accommodate that particular celebration on Wednesday. I think the gentleman is also aware, however, that there is to be a major celebration, national celebration, in Philadelphia the next day. I think there was some hope that Congress would be able to participate as an optional kind of thing in Philadelphia that day.

It appears to me from the schedule that that has not been taken into account at all. I wonder if the gentleman could at least maybe inform the Members how many votes might be expected,

what bills will be up specifically on Thursday that Members might have to look at if they would decide to go the national celebration that is to be held in Philadelphia?

Mr. FOLEY. Mr. Speaker, I would be glad to respond to the gentleman's question if the distinguished minority leader would yield to me.

Mr. MICHEL. Mr. Speaker, I am happy to yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, we are currently scheduling the bill H.R. 442, the Civil Liberties Act, for Thursday. There has been inquiry about why the House did not simply abandon legislative work on Thursday in view of the fact that there are some celebrations in various parts of the country. I think the answer to that is that first of all we did participate, as the gentleman knows, the House and the Senate did participate very extensively in celebration in Philadelphia already. We are having recognition of this important anniversary on Wednesday, the 16th, and the House made a judgment not to have a 1-day national holiday on Constitution Day, so it seems that we should go forward with the work of the House on that day.

In the event that there is any change in the schedule, and I am not predicting any, but in the event there should be any change in the schedule we will try to announce that promptly. At the present time we are scheduling H.R. 442 for Thursday. The number of votes on that bill would be, again purely speculative, but I guess we would have to assume there would be rollcall votes and amendments are in order, or will be in order, I am sure, subject to the rule.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I certainly understand what the distinguished majority leader, the gentleman from Washington, is telling us, and the House did make a determination not to spend several hundred million dollars in order to have a holiday that day. I think there is somewhat of a difference between what Congress schedules in terms of that celebration and an overall national holiday, since the Congress in times past has shut down for things like Boston Celtics basketball games and a number of other things. It seems to me that we could maybe accommodate something which is of fairly monumental significance in the history of this country for Members of Congress. If the House determines that that is not appropriate, Members I guess will have to understand.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I am happy to yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I would have to disagree with my distinguished friend. We have emphasized in fact the importance of this historic year and in addition to participating at Philadelphia already in moving ceremonies, the House and the Senate were to consider legislation which was before the House for a one-time, 1-day national holiday to give further emphasis and celebration to the historic occasion. I am not quarreling with the decision. The House has spoken on that, but the House decision was not to have such a holiday and consequently for Americans who might want to celebrate this day, they are not going to be celebrating it on a holiday.

I think it was our assumption that what was the situation for the rest of the country might be appropriately the situation for the House, namely, that it was a day which would be a working day although obviously in our consideration on Wednesday the previous day and our past celebrations in Philadelphia and in all of our actions on the 17th we would reflect on the historic importance of this day and there was no difference between us on that issue. It is in fact a day which we thought deserved a 1-day national holiday.

In any event I understand the gentleman's concern that there are local celebrations that Members might want to attend. At the present time, in answer to his question, we have an important bill on the floor. If there should be any change in that, and I am not predicting it, but if there should be any change in that we would immediately notify our friends on the minority side and so the Members could be advised.

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Mr. MICHEL. Mr. Speaker, I yield to the gentleman from Pennsylvania who also has I think some concern about that coming from the immediate area where this matter is focused.

Mr. COUGHLIN. Mr. Speaker, I wish to add my voice to the voice of my colleague from Pennsylvania. The 17th is indeed the anniversary of the signing of the Constitution of the United States, that day that we have been building up to for the entire year. It seems peculiar that we do very little on Monday and Tuesday and put all of the work of the week into the 2 days that are the most important in terms of the celebration of the bicentennial of our Constitution. I would hope that some consideration might be given by the leadership and by the distinguished majority leader to some variation of that on that Thursday which is indeed an important day, not

just in Philadelphia but around the Nation where celebrations are being held, in schools, in towns, in villages, in communities all around our country in commemoration of the bicentennial of the Constitution.

Mr. FOLEY. Mr. Speaker, I respond to the gentleman from Pennsylvania, if the gentleman from Illinois will yield further, that we are sensitive to the concerns and interests not only of the gentleman from Pennsylvania, which is the historic State where these great events transpired, but also the Members from other parts of the country where there are local celebrations. While I cannot announce any change in the program because the program is as I announced, if there is any change—and all such announcements carry the admonition that further changes may be announced later—if there is any change we will assiduously pursue prompt notification of the Members for their information and reaction.

Mr. MICHEL. Mr. Speaker, I yield back the balance of my time.

#### DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore (Mr. NATCHER). Is there objection to the request of the gentleman from Washington?

There was no objection.

#### ADJOURNMENT TO MONDAY, SEPTEMBER 14, 1987

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

#### ANNOUNCEMENT BY THE MAJORITY LEADER

Mr. FOLEY. Mr. Speaker, may I conclude by again reminding Members that on Wednesday, the 16th of September, that is Wednesday next, there will be an official photograph taken of the House of Representatives.

I believe it is the first order of business of the day. All Members are encouraged to be present in the Chamber so that that photograph may reflect the totality of the House of Representatives.

#### A BIPARTISAN INSPECTION OF SOVIET RADAR FACILITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON. Mr. Speaker, as a freshman Member of this Congress, this historic 100th Congress, I have attempted to specialize in those areas where I feel that I have background or expertise that will allow me to contribute significantly to the conduct of the business of this body. As such, one of the areas I have attempted to focus on is the relations between this country and the Soviet Union.

One of my undergrad degrees, Mr. Speaker, is in Soviet-American relations, Soviet studies.

In addition, I have been involved extensively over the last 5 years in Soviet-American exchange programs. I have had discussions, formal discussions and debated with young Soviet leaders on three occasions, twice in this country and once when I traveled extensively throughout the Soviet Union in December 1985.

In addition, in working with the American Council of Young Political Leaders, Washington-based group which fosters improved relations between this country and other nations of the world, I have attempted to assist in every sense in every possible opportunity in improving relations between our countries and I have hosted Soviet delegations on numerous occasions in my first 8 months as a freshman legislator in this body.

In all the discussions and the studies and the work that I have done in Soviet-American relations I have consistently also been concerned with treaties that we enter into as nations and the adherence to those treaties by both nations.

As on the discussions of the Defense authorization bill this past spring and the discussion which focused around the strict versus broad interpretation of the ABM Treaty, I thought it appropriate to offer an amendment to the Defense authorization bill that would point up what I felt and what many felt was to be an obvious violation of the ABM Treaty, the installation of the Krasnoyarsk radar facility in Siberia.

So, Mr. Speaker, I brought that amendment to the House floor. I led the discussion on the floor of the House, brought in the statements by many notable officials of both political parties and all political ideologies throughout this country. I even quoted a notable Soviet general who acknowledged that Krasnoyarsk was in fact a violation of the ABM Treaty, as well as many of my colleagues in this body who have publicly gone on this record as stating that Krasnoyarsk was in fact a violation of the ABM.

Mr. Speaker, when that amendment came up for a vote on the floor of the House it passed the House of Representatives by a vote of 418 to 0.

Not one Representative of this body disagreed with me that Krasnoyarsk was in fact a violation of ABM.

The reason I mention all of this, Mr. Speaker, is that I was somewhat dismayed to read and to hear on the national press and in the media over this last weekend and yesterday and today that a partisan delegation of this body made a special trip to Krasnoyarsk, a partisan delegation of this body including three Members of this body, two staff members of two Members of this body as well as a reporter from one of our national newspapers along with the National Resources Defense Council, made a special trip to Krasnoyarsk.

Now I applaud anyone who is attempting to get any more information about Soviet violations and about whether or not Krasnoyarsk was in fact a violation. I would have felt better if it had in fact been a bipartisan delegation that made the trip to Krasnoyarsk that could come back and report to us so we can take appropriate action.

I look forward to meeting with the Members of this body who went to Krasnoyarsk. I look forward to hearing their firsthand account of what they saw. But, Mr. Speaker, I also think that we need to look beyond Krasnoyarsk, make comparisons with our Soviet installations and therefore, Mr. Speaker, what I have done today and which I am announcing here is that I have sent a letter that is being personally delivered to the Soviet Embassy with copies to the Politburo members of the Soviet Union, asking that I be permitted to travel to Krasnoyarsk with a bipartisan delegation of Members of this body as well as to see the Krasnoyarsk facility and to also visit the Pechora facility so we can make an adequate comparison of these two facilities to see whether or not Krasnoyarsk is a violation of the ABM.

My letter will be delivered today. I would hope that the Soviet Union would want to have a bipartisan look at Krasnoyarsk and I would hope that the purpose of the Soviet Union allowing five Members of one party in this country or three Members and two staff persons of two other Members to visit Krasnoyarsk was not simply a political ploy in light of the upcoming visit of Foreign Minister Eduard Shevardnadze to this country in anticipation of his talks so that that could be acknowledged that we had lawmakers visit that facility and have downplayed the importance of Krasnoyarsk in relation to the ABM Treaty. And I would hope that the Soviet Union, in receiving my letter, would look at that



letter in the spirit of what I think to be and I hope to be their openness in wanting to have this body to have a full assessment of Krasnoyarsk and its long-term implications of our relations and more importantly of the ABM Treaty and its adherence itself.

So I anxiously await the Soviet response and I would hope, as I said here today, that the invitation to those Members of one political party in this country is not done in the spirit of partisanship but is done and was done in the spirit of allowing us to assess Krasnoyarsk in light of other Soviet installations and allowing us to fully assess the implications that Krasnoyarsk and Pechora have on the ABM Treaty itself.

Mr. Speaker, I yield back the remainder of my time.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COATS) to revise and extend their remarks and include extraneous material:)

Mr. BOULTER, for 60 minutes, on September 29 and 30.

Mr. HORTON, for 60 minutes, on September 29.

Mrs. BENTLEY, for 5 minutes, on September 10.

Mr. ARMEY, for 60 minutes, on September 15.

(The following Members (at the request of Mr. GRAY of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. FRANK, for 60 minutes, on September 15.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. GRAY of Illinois, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. WELDON, for 5 minutes, today.

(The following Member (at the request of Mr. DYMALLY) to revise and extend his remarks and include extraneous material:)

Mr. KLECZKA, for 5 minutes, today.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. COATS) and to include extraneous matter:)

Mr. GOODLING.

Mr. LAGOMARSINO.

Mr. GRADISON.

Mr. CRANE.

Mr. RITTER.

(The following Members (at the request of Mr. GRAY of Illinois) and to include extraneous matter:)

Mr. ROSTENKOWSKI.

Mrs. BOXER.

Mr. FAZIO.

Mr. BERMAN in two instances.

Mr. PRICE of Illinois.

Ms. SLAUGHTER of New York.

Mr. CLARKE.

Mr. RODINO in two instances.

Mr. LANTOS.

Mr. MONTGOMERY.

#### SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 548. An act to amend title 11, United States Code, the Bankruptcy Code, regarding benefits of certain retired employees, and for other purposes; to the Committee on the Judiciary.

#### ADJOURNMENT

Mr. DYMALLY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 47 minutes p.m.), under its previous order, the House adjourned until Monday, September 14, 1987, at 12 noon.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of the rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2062. A letter from the Deputy Assistant Secretary (Logistics), Department of the Air Force, transmitting the Department's study with respect to converting the military family housing maintenance function at Laughlin Air Force Base, TX, and that performance under contract is the most cost-effective method of accomplishment, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); to the Committee on Appropriations.

2063. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's proposed letter(s) of offer to Japan for defense articles estimated to cost \$50 million or more, pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

2064. A letter from the Executive Director, D.C. Retirement Board, transmitting the Board's fiscal year 1986 annual report, pursuant to D.C. Code sections 1-732, 1-734(a)(1)(A); to the Committee on the District of Columbia.

2065. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Audit of the Public Service Commission and the Office of the People's Counsel Miscellaneous Taxicab Accounts," pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

2066. A letter from the Secretary of Health and Human Services, transmitting a

draft of proposed legislation to extend and amend various health authorities, and for other purposes; to the Committee on Energy and Commerce.

2067. A letter from the Secretary of Health and Human Services, transmitting a discussion of amendments with regard to H.R. 1327; to the Committee on Energy and Commerce.

2068. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's proposed letter(s) of offer to Japan for defense articles and services estimated to cost \$80 million, pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2069. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Air Force's proposed letter(s) of offer to Korea for defense articles and services estimated to cost \$77 million, pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2070. A letter from the Assistant Secretary for Legislative and Intergovernmental Affairs, Department of State, transmitting the determination that it is in the national interest to grant assistance to Niger even though it is in default on loans made under the FAA, pursuant to 22 U.S.C. 2370(q); to the Committee on Foreign Affairs.

2071. A letter from the Executive Secretary, Federal Deposit Insurance Corporation, transmitting the agency's notice of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2072. A letter from the National President, Women's Army Corps Veterans' Association, transmitting the financial statement of Women's Army Corps Veterans' Association for fiscal year July 1, 1986 through June 30, 1987, pursuant to 36 U.S.C. 1103; to the Committee on the Judiciary.

2073. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report on the transfer of property under the Panama Canal Treaty of 1977, pursuant to 22 U.S.C. 3784(b); to the Committee on Merchant Marine and Fisheries.

2074. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend section 8 of the Eastern Pacific Tuna Licensing Act of 1984; to the Committee on Merchant Marine and Fisheries.

2075. A letter from the Director, Office of Personnel Management, transmitting the first annual report evaluating the performance management and recognition system covering the first two cycles of pay increases and awards under the PMRS Program, pursuant to 5 U.S.C. 5408; to the Committee on Post Office and Civil Service.

2076. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on the proposed use of R&D funds for the design and construction of a spacecraft solid rocket motor [SRM] high energy x-ray facility at Kennedy Space Center, FL, pursuant to Public Law 99-170, section 103 (99 Stat. 1014); to the Committee on Science, Space, and Technology.

2077. A letter from the Secretary of Labor, transmitting a draft of proposed legislation to provide for improved representation of Federal departments and agencies on the Secretary of Labor's Committee on Veterans' Employment, and for other purposes; to the Committee on Veterans' Affairs.

2078. A letter from the Acting Administrator, Agency for International Development, transmitting a report on the origin, contents, destination and disposition of humanitarian goods and supplies transported by the Department of Defense pursuant to Public Law 98-525, section 1540(e) (98 Stat. 2638); Public Law 99-145, section 306(a) (99 Stat. 617); Public Law 99-661, section 331(b) (100 Stat. 3857); jointly, to the Committees on Armed Services and Foreign Affairs.

2079. A letter from the Secretary of Labor, transmitting a draft of proposed legislation to protect the confidentiality of data made available to the Bureau of Labor Statistics and for other purposes; jointly, to the Committees on Education and Labor and the Judiciary.

### PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MATSUI (for himself, Mr. DUNCAN, and Mr. COELHO):

H.R. 3250. A bill to amend section 118 of the Internal Revenue Code to provide for certain exceptions from certain rules for determining contributions in aid of construction; to the Committee on Ways and Means.

By Mr. FASCELL (for himself and Mr. ANNUNZIO):

H.R. 3251. A bill to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the U.S. Congress; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MILLER of Ohio:

H.R. 3252. A bill to create a national education savings trust; to prescribe the powers and duties of the trust and of its board of trustees; to provide for advance tuition payment plan agreements; to establish an advance tuition payment fund and to provide for its administration, and for other purposes; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. PANETTA:

H.R. 3253. A bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome; to the Committee on Energy and Commerce.

By Mr. WOLF (for himself and Mr. BROOMFIELD):

H. Con. Res. 186. Concurrent resolution urging the German Democratic chief of state Erich Honecker to permanently repeal the order directing East German border guards to shoot to kill anyone who without authorization, attempts to cross the Berlin Wall and to issue an order to tear down the Berlin Wall; to the Committee on Foreign Affairs.

By Ms. OAKAR:

H. Res. 259. Resolution designating membership on certain standing committees of the House; considered and agreed to.

### MEMORIALS

Under clause 4 of rule XXII,

199. The SPEAKER presented a memorial of the Legislature of the State of Illinois, relative to the Equity in Employment Security Financing Act; to the Committee on Ways and Means.

### ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 124: Mrs. BENTLEY.

H.R. 192: Mr. WOLFE.

H.R. 622: Mr. NEAL, Mr. BARNARD, Mr. OWENS of Utah, and Mr. GUNDERSON.

H.R. 792: Mr. HEFLEY and Mr. McEWEN.

H.R. 916: Mr. FROST.

H.R. 1028: Mr. GRADISON.

H.R. 1601: Mr. GUNDERSON.

H.R. 1707: Mr. DeWINE, Mr. BLAZ, Ms. PELOSI, Mr. HASTERT, Mr. LANTOS, Mr. HUBBARD, Mr. BENNETT, Mr. COELHO, Mr. AKAKA, Mr. ROEMER, Mr. COATS, Mr. STANGELAND, Mr. UDALL, Mr. HUTTO, Mr. THOMAS of Georgia, Mr. MARKEY, Mr. KOLTER, Mr. NICHOLS, and Mr. PEPPER.

H.R. 1721: Mr. SCHUETTE.

H.R. 2153: Mr. FOGLIETTA.

H.R. 2228: Mr. WEBER, Mr. LIGHTFOOT, Mr. PENNY, and Mr. DUNCAN.

H.R. 2248: Mr. FIELDS, Mr. SCHAEFER, Mr. RINALDO, Mr. WEBER, Mr. HEFLEY, and Mr. HUGHES.

H.R. 2323: Mr. SLATTERY and Mr. DUNCAN.

H.R. 2497: Mr. MOODY.

H.R. 2498: Mr. MOODY.

H.R. 2532: Mr. SIKORSKI, and Mr. TOWNS.

H.R. 2603: Mr. BOULTER, Mr. CRAIG, and Mr. THOMAS of California.

H.R. 2607: Mr. LEVIN of Michigan and Mr. FOGLIETTA.

H.R. 2640: Mr. ROGERS, Mr. AKAKA, Mr. PRICE of North Carolina, Mr. RINALDO, Mr. WOLF, Mr. McEWEN, Mr. MOLLOHAN, Mr. ATKINS, Mr. COELHO, Mr. VENTO, Mr. CARR, Mr. ST GERMAIN, Mr. TORRICELLI, Mr. BILBRAY, Mr. DAVIS of Michigan, Mr. RAY, Mr. SYNAR, and Miss SCHNEIDER.

H.R. 2690: Mr. OWENS of Utah, Mr. DUNCAN, and Mr. EVANS.

H.R. 2697: Mr. JACOBS, Mr. NICHOLS, and Mr. BEREUTER.

H.R. 2759: Mrs. BENTLEY.

H.R. 2793: Mr. CHANDLER, Mr. FLIPPO, Mr. ANDREWS, Mr. AKAKA, Mr. BARNARD, Mr. CAMPELL, Mr. DAUB, Mr. FRANK, Mr. LAGOMARSINO, Mr. NEAL, Mr. NOWAK, and Mr. RICHARDSON.

H.R. 2844: Mrs. BYRON and Mrs. BENTLEY.

H.R. 2887: Mr. KOLBE, Mr. DUNCAN, and Mr. FOGLIETTA.

H.R. 2929: Mr. TAUKE and Mr. JACOBS.

H.R. 3021: Mr. SENSENBRENNER, Mr. DURBIN, Mr. BURTON of Indiana, and Mr. NELSON of Florida.

H.R. 3057: Mr. DeFAZIO.

H.R. 3071: Mr. STARK.

H.R. 3083: Mr. WORTLEY, Mr. GRAY of Illinois, and Mr. DAVIS of Illinois.

H.R. 3143: Mr. ATKINS, Mr. MARKEY, Mr. BIAGGI, and Mr. KANJORSKI.

H.R. 3161: Mr. EVANS.

H.R. 3180: Mr. DWYER of New Jersey, Mr. HOWARD, and Mr. DORNAN of California.

H.R. 3228: Mr. MONTGOMERY, Mr. RANGEL, and Mr. DOWNEY of New York.

H.J. Res. 112: Mr. UDALL, Mr. DICKS, Mr. JOHNSON of South Dakota, Mr. STUDDS, Mr. CONYERS, Miss SCHNEIDER, Mr. SMITH of New Jersey, and Mr. LEVINE of California.

H.J. Res. 227: Mr. ANDREWS, Mr. MACK, Mr. MARTINEZ, Mr. ESPY, Mr. DYMALLY, Mr. BRYANT, Mr. STOKES, Mr. ATKINS, Mr. LEVIN of Michigan, Mr. WORTLEY, Mr. BORSKI, Mr. LEHMAN of California, Mr. CALLAHAN, and Mr. FIELDS.

H.J. Res. 308: Mr. TOWNS, Mr. HEFNER, Mr. KASICH, Mr. SHUMWAY, Mr. KOLTER, Mr. CONYERS, Mr. LEVINE of California, Mr. MORRISON of Connecticut, Mr. MARTINEZ, Mr. ROBERTS, Mr. GARCIA, Mrs. BENTLEY, Mr. JENKINS, Mr. BONER of Tennessee, Mr. FAWELL, Mr. ANDERSON, Mr. APPELGATE, Mr. HANSEN, Mr. FLIPPO, Mr. HUNTER, Mr. LANTOS, Mr. LATTI, Mr. LEACH of Iowa, Mr. LIVINGSTON, Mr. McDADE, Mr. MARTIN of New York, Mr. MATSUI, Mr. MILLER of Ohio, Mr. SUNIA, Mr. TORRICELLI, Mr. YOUNG of Alaska, Mr. NEAL, Mr. GALLO, Mr. LEWIS of California, Mr. BUSTAMANTE, Mr. JONES of North Carolina, Ms. OAKAR, Mr. FAUNTROY, Mr. BLAZ, Mr. DYMALLY, Mr. DANIEL, Mr. BROWN of Colorado, Mr. COATS, Mr. TALLON, Mr. BROWN of California, Mr. KOSTMAYER, Mr. HOWARD, Mr. GRAY of Illinois, Mr. FIELDS, and Mr. VOLKMER.

H.J. Res. 326: Mr. YOUNG of Florida, Mr. DINGELL, Mr. VANDER JAGT, and Mr. YATRON.

H.J. Res. 328: Mr. HOYER, Mr. RAHALL, Mr. McCLOSKEY, and Mr. ECKART.

H.J. Res. 353: Mr. MARTINEZ, Mr. THOMAS of Georgia, Mr. PARRIS, Mr. BONER of Tennessee, Mr. HUBBARD, Mr. YATRON, Mr. MARTIN of New York, Mr. KOLBE, Mr. DUNCAN, Mr. CARDIN, and Mr. McMILLEN of Maryland.

H.J. Res. 355: Mr. HOWARD, Mr. LUJAN, Mr. WILSON, Mr. McGRATH, Mr. SMITH of New Hampshire, Mrs. BENTLEY, Mr. DREIER of California, Mr. TAUKE, Mr. GREEN, Mr. COURTER, Mr. PETRI, Mr. MINETA, Ms. OAKAR, Mr. McDADE, Mrs. BYRON, Mr. FLORIO, Mrs. SAIKI, Mr. THOMAS A. LUKE, Mr. RANGEL, Mr. BLILEY, Mr. MILLER of Washington, Mr. CRANE, Mr. LOTT, Mr. DIOGUARDI, Mr. SKEEN, Mr. COUGHLIN, Mr. ROE, Mr. SMITH of Florida, Mr. WORTLEY, and Mr. DeFAZIO.

H.J. Res. 356: Mr. CARPER, Mr. FAUNTROY, Mr. TALLON, Mr. CALLAHAN, Mr. BUSTAMANTE, Mr. LEWIS of California, Mr. HANSEN, Mr. LEHMAN of Florida, Mr. DOWDY of Mississippi, Mr. BOUCHER, Mr. SABO, Mr. LIPINSKI, Mr. FRANK, Mr. PARRIS, Mr. TORRICELLI, Mr. KOSTMAYER, Mr. VOLKMER, and Mr. RUSSO.

H. Res. 185: Mr. CARDIN, Mr. CARPER, Mr. THOMAS of Georgia, Mr. GINGRICH, Mrs. MORELLA, Mr. DELAY, Mrs. BENTLEY, Mr. CALLAHAN, Mr. MAZZOLI, Mr. LEACH of Iowa, Mr. RITTER, Mr. HOWARD, Mr. MFUME, Mr. BEVILL, Mrs. BOXER, Mr. HOYER, Mr. VALENTINE, Mr. STARK, Mr. VENTO, Mr. McCLOSKEY, Mr. COELHO, Mr. SOLOMON, Mr. ROBINSON, Mr. ANDERSON, Mr. KOLBE, and Mr. STALLINGS.